# IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

## FIRST APPELLATE DISTRICT

## DIVISION FOUR

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| CHURCH OF SCIENTOLOGY, INTERNATIONAL,<br>Plaintiff/Respondent,<br><br>vs.<br><br>GERALD ARMSTRONG,<br>Defendant/Appellant. | NO. A075027 |

# CLERK'S TRANSCRIPT ON APPEAL

## FROM A JUDGMENT MADE AND ENTERED

## IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

## MARIN COUNTY COURTS

## VOLUME 3

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**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**MARIN COUNTY COURTS**

**DEPARTMENT 1**

**CHURCH OF SCIENTOLOGY, INTERNATIONAL,** )
**Plaintiff,** )
)
**vs.** )
)
**GERALD ARMSTRONG,** )
**Defendant.** )
)

**No. 157680**

| | |
|---|---|
| **GARY W. THOMAS** | **JUDGE** |
| **JOHN P. MONTGOMERY** | **COURT EXECUTIVE OFFICER** |
| **ELAINE PASSARIS** | **REPORTER** |

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# GERRY ARMSTRONG VIDEO INTERVIEW 6 NOVEMBER 1992

S = Spanky Taylor
G = Gerry Armstrong
J = Jerry Whitfield

S: We're here with Gerry Armstrong on the 6th of November 1992. Hi, Gerry.

G: Hi, Spanky.

S: Basically, what we're doing here is I want to find out a little bit about your Scientology experience, or, more than a little bit -- as much as we can, starting from when you got involved.

G: Ok.

S: Tell me about that first.

G: I got involved in 1969 in Vancouver, British Columbia, Canada. I spent a year and a half.

S: How old were you then?

G: Twenty-two. Spent about a year and a half in Vancouver. Worked in the local franchise, Scientology Little Mountain. Then in the beginning of '71 went off to save the world. Joined the Sea Org. Flew to LA. Signed my Sea Org contract at what was USLO. Then was on board the Bolivar, stationship down -- not exactly sure where it was...

S: San Pedro?

G: Then...

S: I loved the Bolivar.

G: Then by mid-February '71 was flown to New York, Madrid. Madrid took a train down to Algeciras. Algeciras across by ferry to Tangiers. There sitting in the Tangier harbor was the Apollo. I stayed on board except for brief missions off the ship or sometimes I'd go ashore for brief periods. Was on board 'til the fall of 1975. We were, in those years, in Portugal, Morocco, Spain, and the little Atlantic islands -- Madeira, the Canarys, and then we made a circuit to the Caribbean islands -- Bermuda, Bahamas, Jamaica, Trinidad, Barbados, Netherlands Antilles.

S: Sounds like a Beach Boys saga. You knew LRH?

G: Uh huh.

S: You married, your first marriage was... you married on Flag.

G: Yeah. I married his head messenger. Terry Gillham. Young Terry. She was a great catch.

S: She was. She was.

G: I was organizationally a social climber. I really was. It did work out that way, you know, I was just in the right place at the right time I guess.

S: You had quite the wedding. I remember the photos very well.

G: Yeah? Yeah, I had a big double wedding along with Pat and Trudy Broeker.

S: That's right.

G: Through most of my time on board the ship I was the Legal Officer. We called it the Ship's Representative. I dealt with Immigration, Customs, and the Police and Harbor Master and handled all the needs of the ship while in port. Then I was the Public Relation's Officer Port Captain for a period of time. Then I was the Intelligence Officer through our time in the Caribbean. When we went ashore, landed in Daytona, I was the Intelligence Officer again at the staging area for the Clearwater base which we had in Daytona at that time.

J: What's an Intelligence Officer?

G: Well...

S: It's a

G: ...they were talking about...

S: ... jumbo shrimp, what are those things called oxymorons?

G: Espionage. It's a Hubbard patterned -- his intelligence system, amateur Nazi system. Perfected, created, developed by Reinhardt Gehlen. I was the one person who had gained a giant network of intelligence personnel operated by the Guardian's Office in turn operated by the Guardian, Mary Sue Hubbard, and L. Ron Hubbard. He merely directed on his long distance communication lines all the intelligence operations internationally.

J: What kind of intelligence operations -- we're talking about a church who has intelligence operations, a church with intelligence operations? Is that what you're saying? And you were there, you were involved in that? Is that what I'm hearing?

G: Right. Now I have a different perspective of course and I don't consider Scientology by any definition a "church" other than the fact that they have edifices -- buildings -- which could, if the activities therein were to change, could be churches. The organization itself is not a church. But it's undeniable that it had intelligence organization and has been described as outside of the FBI and the CIA, the most formidable intelligence organization operating on the North American continent.

S: At this time, in the early times when you on the ship, you knew the offspring of L. Ron Hubbard. You knew his kids, is this right?

G: Right.

S: Quentin and Diana, Arch and Suzette.

G: Right.

S: Tell me a little about them. I mean, you know, were they happy, were they well educated, because, of course, they were the offspring of this man with this tremendous wealth, did they receive the best of possible educations, did they lead a privileged life in terms of the...what was accessible to them in terms of in a society type of sense in terms of their education and their upbringing. Did they attend the finest finishing schools? Was Diana Hubbard a debutante. Do you know what I mean? Tell us about that.

G: I think she could have been a debutante but I don't think she was. I think that all the kids were pretty real in their own way, given the environment in which they found themselves and given the very odd circumstances of growing up in the Sea Organization. I suppose that the one I got closest to was Arthur. Arthur and I sort of ran tandem Sea Watch, or rather, gangway Quarter Master Watch for quite a period of time so I had the task of waking him up. He was pretty young at the time, 13 or 14, I don't quite remember. It was always difficult waking him up and he would pull rank a little bit in that I didn't want to make too much noise waking him up in his cabin and there was always the threat that if you did anything out of line at all, Ron...

S: Of Ron.

G: Son of Source.

S: My son of Source. Aauugh. That word.

G: But all of them, I was on Diana's Sea Watch and she was a good Conning Officer. I think that all of the kids were intelligent and I think that they were all decent, good people.

S: Happy? Unhappy?

G: I think both. Happy at times, unhappy at times.

S: Very normal then.

G: Pretty normal.

S: And Quentin?

G: Quentin, I think much the same thing. He probably was the artist of the lot, relative to the Sea Org experience. But we got along fine. I always found him to be perhaps the most understanding, in a way, in almost as if he had ...

S: Sensitive?

G: Yeah, sensitive. Passionate. Didn't pull rank and wasn't threatening in any way.

S: So then you were at Daytona when the base was originally moved there.

G: Uh huh.

S: And from that point.

G: Then we moved to Dunedin. At that point I was busted from the Guardian's Office. I was in the Guardian's Office Intelligence Bureau. Mary Sue or Nikki who was her communicator deemed me a security risk of some kind and so I was removed from the Guardian's Office and I was assigned to Hubbard's Communication Bureau. So I became what was called the Deputy LRH External Communications Aide when we moved to Dunedin which was in December of 1975. We had a secret base for Hubbard and his personal staff and Mary Sue and her personal staff at Dunedin in an apartment complex and [inaudible] maybe eight miles from Clearwater. I stayed there until June of '76 at which time I was sent to Culver City here in Los Angeles to set up a staging area for what became the base that was built in La Quinta.

I was only there for a brief amount of time. I was there to set up this unit along with three other messengers. Hubbard arrived, Mary Sue Hubbard arrived, and then I had a fight with Nikki, and Hubbard then assigned me -- first I was taken out in a back unit and I was kept locked up in the

Intelligence Bureau in the Fifield Manor in Los Angeles.

J: You were locked up?

G: Right. I was kept under guard for a couple of weeks.

S: Which is where that Guardian's Office is moved to.

G: Right. The Intelligence Bureau of the G.O. was there. I was picked up by the D/Guardian for Intelligence Dick Weigand.

J: Isn't that falsely (sic) imprisonment. Isn't that illegal?

G: Yeah. It was clearly false imprisonment.

S: At this point do you feel much of what you had done had been illegal? On some level or another?

J: For Scientology.

G: Personally?

S: That you had done personally.

G: I clearly had been involved in some illegalities especially while I was on the ship. Smuggling things on and off and...

J: What kind of things? Money, drugs? Weapons?

G: We did move a lot of money around. Briefcases.

J: [...one word]

G: Briefcases of money that were brought to the ship. Booze, cigarettes, that sort of stuff taken off the ship and run through Customs. And other things that were just done sort of borderline activities. But I was willing to do those sorts of things at that time and I considered that I was doing the greatest good for the greatest number.

S: When you were working in Intelligence were you involved with any "dirty tricks" against other Scientologists or other staff members?

G: I was aware of dirty tricks against staff members. I was aware of the way the Guardian's Office Intelligence Bureau worked to some degree because I had a lot of the policies. I had the Guardian's Office Intelligence hat, the Intelligence Manual which trained people to lie and steal and create false identities and harrass the enemy.

J: Why would a church need to that?

G: Well, a church doesn't need to do that, but Scientology's not a church.

J: Why would Scientology feel the need to be involved in that kind of activity?

G: Because Hubbard was afraid and his idea on dealing with enemies was to attack them. One of the ways that he attacked them was through covert means.

J: Why would a man as great as Hubbard who had THE technology to save the world, have to fear anyone?

G: Well, he didn't have the technology to save the world. He simply had fear because he had fear. He was never able to triumph over his fear, so he put his trust in attacking people as opposed to doing the rational things in life and he also had reason to fear because he had falsified his credentials, he had lied about his life and he was afraid of being exposed. He had also lied and cheated for many years. He knew that there were people around who knew what he really was.

S: Now how did you come to find this out?

J: Can I ask one question? Answer that but answer this one first because you've got me really interested. If Scientology could do what it says it could do, would you still be in it? If it had the technology to do what it says, would you still be in anything?

G: In answering that question you'd have to...if you assumed that if it could do what it says it could do it would have a different form from what it is, then the answer might be yes. But both things would have to be true. It would have to deliver and it would have to be different from its present form opposed from the form which I came to know and understand.

J: Thanks. That's what I wanted to know. Go ahead with Spanky. How did you find out this?

S: How did you come to know that in fact Hubbard had fabricated his credentials, had in fact developed this tremendous fear that he had of being found out, have this paranoia?

J: What credentials? What would he...did when found out?

G: I guess the process of that discovery began when I first got involved with the Sea Organization. Of course I worked with the man for quite a period of time. I shot gnus with him in the desert after we left the ship. He twice assigned me to the RPF. I talked to many people about him. I read hundreds of thousands of his words. I listened to him and listened to his tapes so I had a great understanding before I ever came to the realization that what I'd been led to understand was false, but I needed that great understanding I think in order to know what the falsities were. I was, I considered, quite fortunate in that in the beginning of 1980 and we then were in Gilman Hot Springs and there was a threat of a raid and we were required to go through...each person had to go through his...all papers in his area, whatever post he was on, and all personal papers, and destroy anything which showed Hubbard's control of the organization, anything which showed his intent to live at the Gilman Hot Springs' property, anything which showed his control of organization finances.

S: So now in January of '80 isn't that when, as far as the rest of the staff at the other organizations knew, L. Ron Hubbard went off the lines, so to speak, January '80 he was like... Did he in fact go off the line or was it just made to look like he went off the line at that point? Cause that's what you're saying, if I'm following you correctly, do you know, there was this perception that he was now gone and had cut ties to the actual on-hands running of the organization.

G: Well, it's...part of that is true. There had been a gradual decrease, I would say, of his hands-on involvement, but enough -- though he left from the location that he was at the beginning of 1980, he continued to run the organization. He just continued to run through a different conduit.

S: Now, so you went through the papers within your specific area. Was this prior to your being assigned to the biography project?

G: No, this is what the biography project came out of. Because in the process of going through my things I was at that time responsible for the Household Unit at the Gilman Hot Springs property. One of my juniors was responsible for all of L. Ron Hubbard's stuff -- his personal effects which were stored at the Gilman property. She came to me with a box with very old materials, very old papers, and asked if they should be shredded. I looked through this stuff and saw that it all predated Dianetics so thought, it should be no risk whatsoever. It has nothing to do with his running the organization. So, I also saw that it had great historical value. When we then began to look over inventories, began to go through his stuff we uncovered some 20 boxes of similar material. I knew that this stuff, what could form the basis for a library and was incredibly valuable for its history and just as original documents, and that it would form the basis for a biography. So, it was at that time that I petitioned Hubbard to be able to collect this stuff up to preserve it and to contract with an outside writer to do the biography.

He approved the petition in January '80. Then we communicated another couple of times before I then did not have what was that direct comm line to him, communication line. We could then no longer admit to a communication line to him. It still was there but we could not use it for fear of civil litigants or the government then being able to subpeona him.

S: As he was under a lot of legal threat.

G: Right.

S: Domestically, at that time, right?

G: Right.

J: Why would L. Ron Hubbard be under legal threat?

G: Because he controlled the organization.

J: What's wrong with that?

G: And because the organization was involved in criminal and tortious activities.

S: I think initially the church had, was also under tremendous legal stress in terms of people who were filing suit against the church now for fraud. There were attempts made to name L. Ron Hubbard in a suit, to actually serve him or subpeona him which is when he sort of "poof."

G: Right.

S: Disappeared.

J: So he disappeared, he ran and hid.

G: Right.

J: So, hiding is pretty down on the tone scale.

S: So I hear, honey.

J: But that's, that what the great L. Ron Hubbard was doing. You were there and that's what you saw.

G: Yeah. I mean he did hide.

J: I'm not trying -- it's just very difficult, the reason I'm saying it, it's very difficult for somebody who's in Scientology to conceive that the great L. Ron Hubbard whom they've never met, that have only heard these wonderful things about, to even perceive or comprehend that this might have occurred with this man. How can this man be human? He's not human. He was L. Ron Hubbard. The reason that we're doing this interview is so that other people can know. It's very easy for a non-Scientologist to understand those things. It's very difficult for a Scientologist cause Scientologists don't get the type of information that non-Scientologists get. And yet you were there. You knew him. You worked with him for probably 15 years or so.

G: I was in the Sea Org for 11 years.

S: Gerry, backing up a bit, you saw him as a fallible human being, am I correct?

G: Yeah.

S: I mean he had had illnesses.

G: Right.

S: A great many illnesses, a few illnesses?

G: Quite a few.

S: I know that he had these horrendous allergies which when we refer (sic) to them we would be heavily reprimanded and corrected and told they were not allergies they were sensitivities. (laughs) You know there was a brilliant way of sort of smoothing over things.

G: Right. Right. He continued to wear clothes when he was stark naked.

S: Oh, yes. Yes, of course.

G: And we all did that in our own mind, and we all stopped ourselves from thinking critical thoughts of L. Ron Hubbard. We really didn't do him much of a favor because he really was human in every way.

S: Yes. Do you feel that the mindset of the group of -- all of the adoration that L. Ron Hubbard received, contributed to his delusion? Or do you feel that he imposed the delusion upon the group? Or do you think it's kind of 50/50?

G: There's no doubt that he was in control. We did not control L. Ron Hubbard. Although he could have become the effect of his own lust for control, and his own greed and his own avarice, so he created his sycophants. The effect of... often of what you create may not be that pleasant so he did create his own charisma.

S: Ok. So now you contracted with Omar Garrison, am I correct, to do the writing of this book which you were researching?

G: Yeah, beginning in January, I collected up the materials from the Gilman Hot Springs property.

S: Several boxes of materials.

G: Right.

J: This was in '80 or '81?

G: '80, beginning of '80. Then shortly after that I moved them to Los Angeles and I began to add to them. I travelled around, travelled up and down the west coast and I bought collections, other people's collections of Hubbard materials. I interviewed a number of people, his other living relatives.

J: L. Ron Hubbard, Jr.?

G: Yeah.

J: His ex-wife?

G: No. No, I didn't talk to Sara. I talked to Sara after that project was over.

J: His daughter Alexis?

G: I spoke to her as well some time later. I spoke to his living aunt, living uncle.

J: That was his [...one word].

G: Yeah. It was good. It was good. They really saw him for what he was, as well. They knew him in a real manner. They knew that he was simply a storyteller.

S: Now, at this time you're going around talking to these people and I presume verifying his various degrees and his education credentials, etc. And you're starting to see holes in his stories, right? At this point, it's still 1980, are you going, whoa. This guy's full of shit. Or are you going, oh, something's wrong here? Or -- I mean I know so many people within the church, despite the fact that these claims and the intros to these books and L. Ron Hubbard's past, you know, and he's been killed three times and come back to life and born of a Virgin Mother or whatever the hell it is, they consider that these things aren't factual. He was a war hero. He did have these degrees. And that the government with a conspiracy against Scientology has gone in an altered all this information. Do you know what I mean? It's like, to continue their own delusion of what was what.

Now, at this point in 1980 were you still buying the story or would you concerned, you know, in terms of the validity of any of that?

G: There were a couple of steps in the process. Initially, I just collected the documents. Then I began to see discrepancies. Although I saw discrepancies I continued to believe that what he was writing about himself and what he had been saying was true. And that the discrepancies could be explained in some manner. Additionally, if there are only a couple of discrepancies and they're minor discrepancies, who cares. But, through the process of the accumulation of the biographic archive, in my study of them, I began to see that it wasn't just a few isolated instances but, rather, that he had -- that lying had been his pattern and that that's what was true about him. What was true about him was that he was a liar and that he appeared to think that he could lie with impunity.

J: What lies did you see specifically that you could enumerate here.

G: The ones which were significant to me were the ones I think which had been used to draw me into the organization and which had kept me in the organization for all that time, and they were not just used for that but used to create a mystic about him which you could not penetrate, could not question. It was significant ones. If he had been crippled and blinded during the 2nd World War. That he had cured himself with Dianetics. That it was a matter of medical record that he'd twice been pronounced dead. That he was a nuclear physicist. Those, to me, significant representations, I was able to show in his own documents, not the government's documents, the documents which he maintained in his own archive, that they were false.

J: Gerry, how did you feel when this came to light? I mean, you're a loyal Sea Org member. You have worked for the last ten years as a Sea Org member working night and day very hard, giving your all, complete dedication, sometimes 16, 18, 20 hours a day. How did you feel when you began to find these things out and they began to dawn on you that this man was a bigger liar than he was a purveyor a truth? This must have been the devastating thing to go through. You were loyal. There was probably no person any more loyal than you. You were one of the loyal Sea Org members.

G: Well, it was initially like I say, I just noted the discrepancies and carried on with my work. There came a time when my mind began to open. I began to see, and I began to question. That period of time was also a period of great confusion. There was also a period of time of some lonliness because there really was no one to talk to because I couldn't go to someone with a critical thought. I could not -- you could not talk and say the things that I had to say inside the organization.

Then there came a period of time in the fall of 1980. I actually had tried a couple of times. I'd gone to Laurel with some discrepancies, cause Laurel had been his public relations officer for many years. She knew the story. I was saying, "Laurel, this isn't true. We can't say that." Well she got really angry at me and silenced me. So I learned to not say anything.

But there were a couple of points. One of them was contracting with Omar Garrison. Garrison had a couple of very pro-Scientology books prior to my coming on the scene although he was not a Scientologist..

S: He was a huge ally of the church, in fact I...

G: He was a huge ally so again even with Garrison I couldn't just say, "Hey, Omar, you know, check this out."

S: I've connected the dots and it's scary.

G: Right. Now, it was a gradual thing with him, too. I would give him material and then we'd talk about it. Gradually I began to see that Omar understood, and Omar was an ally of mine, so we began to be able to talk freely. And that was another key to my getting out of the organization. Spending a lot of time with him, with his wife, travelling around the country in different situations outside the organization. And then going back into the organization and having that comparison all the time where you do, having the knowledge that I had, going into the organization and seeing the craziness inside and then going out of the organization and seeing the representations the organization was making about the outside was another aspect of the big lie which was being run on us.

Toward the end of my existence inside the organization, and also as I learned more I became, I guess, braver and braver and braver. You know, willing to stand up -- it didn't matter any more. You know, you want to kick me out of this organization? See you later.

But I was still there, still dedicated, so I developed something of a cause during my last few months inside the organization of attempting to get the organization -- and, of course, I knew it would get to Hubbard and it was sort of a challenge to him, but initially to get the organization to change what it was saying.

S: I remember that part very well.

G: I critiqued a number of the dust jacket material and the "About the Author" sections of the various books, and we'd go through them and line by line say, "This isn't true, this isn't true." Here are the facts." This we don't know. We can't document that. It sounds like bullshit to me. So, I did that with a number of pieces. And I think it actually had a good effect up to a certain point, because they did actually change them and tone down some of the hyperbole.

S: Now, didn't at that point you also feel -- this is per my recollection cause I was a PR at that time and worked pretty close with Laurel and -- didn't you feel that despite the fabrications and despite the inconsistencies that there was still value to Hubbard? I think I recalled something about, "Gerry said that we could still do a biography and just make it truthful and still..." -- because LRH had contributed so much, to still a truthful thing, and his contributions would stand on their own. You didn't need all this fabrication. And you sort of had platformed this campaign, right, where you went over like a pregnant polevaulter...

G: Right.

S: ...as I recall.

G: It really, I think, ran his accomplishments and the technology will have to stand on its own. If it's going to stand, it has to stand on its own. We can't hold it up with lies. That's the way I still feel about it and I think it has fallen on its own. I don't think that it's workable and I think that it's an enforced technology. But that's sometime later in my development.

S: Now, by this time, you and Terry were no longer married and you had remarried to Joyce Brown.

G: Right.

S: Was your relationship with your wife at this time, where you were very vulnerable and feeling alone, was that any solace to you?

G: Yeah. She came along in...

S: Another catch, dude. I mean she was such a doll-baby. Is such a doll-baby.

G: Yeah, she's a sweetheart. Initially, I'm working away on the biography project and she's up there in SMI, Scientology Missions International. And we connect. And you know what a Sea Org romance is like, you know. "Hey, gotta a weekend free, let's drive down to Tijuana and get married." You know it's that kind of a thing. I think I drove her down one week and got her a divorce and the next week got her -- married her, sort of.

She was in much the same situation as I was in, that if you're free to talk to anyone inside the organization then, for one thing, the organization wouldn't be Scientology -- if people were free to talk it wouldn't be Scientology because that's the essence of Scientology is this lack of freedom. We at one point came to this realization that we could talk. So, just toward the end of our being inside the organization we formed something of a conspiracy of two. So, knowing what we knew, and once I knew that I could talk to her and what she knew is she could talk to me, and we formed this little conspiracy...

J: It really wasn't a conspiracy though. It was open, honest communication.

S: Between a husband and wife.

G: Right, open and honest between us, but ....

S: But within the organization it would have been a conspiracy.

G: ...but conspiring to not let the organization know because they say you must talk open and freely to this sec checker but you can't talk open and freely to your spouse.

S: What?

G: That's the organizational paragon. So we violated that because when it came to sec checking it was -- I mean she had to go through a sec check toward the end of our Sea Org experience and by that time, I mean, once you know that the whole thing is a scam, anybody can con a sec checker, because you have a certain altitude. Go ahead and ask a question. I don't care.

S: That's right.

G: You know, it doesn't read. There's no more belief in that meter. It's just a pack of garbage.

J: Are you saying that the E-Meter is not 100% effective?

G: The E-meter is at best a worthless, anti-religious artifact.

J: Thank you.

S: [...phrase], honey, give it to us straight, ok? I mean, you know, enough of this pussyfooting around stuff.

J: You feel pretty strongly about that, don't you Jerry?

S: Yeah.

G: No, it's a irrelevant. It has no meaning. It has no value whatsoever. I did this...

J: The value that it has is the value that the person holding the cans has...

S: Infuses into it [..phrase].

J: Yeah, places upon it because of what he's been told or shown.

G: That's not the value. There may be some value in answering questions. There may be some value of looking into one's mind.

J: I agree with what you're saying. I don't disag.. I'm saying the value that it has to the organization, not to the person.

G: Oh, yes. It has the same kind of value that thumbscrews had in another era.

J: Yeah.

S: Now, Gerry, when you had all those documents and you had these boxes, did you not come across a lot of evidence in terms of not only inconsistencies in the fabrications that L. Ron Hubbard had presented to Scientology as a whole, but also things that made his past actually questionable in terms of maybe alcoholism or drug use or things that you came across that not only show him as someone who's made up these [...one word], but showed a quite -- I imagine was the antithesis of what had been presented.

G: Yeah. Yeah.

S: Tell us about that.

G: I began to see that his drug of choice in his later years were steroids. He dosed himself with massive doses of testosterone. I remain convinced that that is what he used to keep an edge on his belligerence.

S: Interesting.

J: How did you come to find that out?

G: From his own writings.

J: Is there any way that we could look at those writings?

G: I don't know of any way of getting to them at this time.

J: Why? I know it's a simple question, but why?

G: Because the organization will not disgorge the true information which it has on Hubbard.

S: Do you think they've kept that information or do you think they've destroyed the information?

G: Both. So that there is certain aspects of what they've done and the criminal activity that they're involved in which they maintain. There're certain aspects of it which they destroy.

J: When you say the criminal activity they're involved in, you're saying that the majority of Scientologists have any idea that that's going on?

S: The current Scientologists?

J: Yeah.

G: No.

S: Of course not.

J: Then?

G: When you talk about the majority -- the people at the top know.

J: Like David Miscavige and Norman Starkey and...

G: Yeah, and Gene Ingram? Sure. The people who control Scientology. And the lawyers. Oh, yeah, the Earle Cooleys of the world? Sure. They absolutely know that they're involved in criminal activity designed to destroy civil rights of the members of the organization and the lives of anyone they perceive as enemys.

J: Can you give me two examples of civil rights that Scientology has violated?

G: Freedom of association, freedom of speech, freedom of religion.

S: Just to name a few, honey.

J: Ok. Yeah. I mean, thanks because...

S: Gerry, you should go on.

J: That sort of thing I think is important. Most people don't realize that that's what's going on. Most people have no idea that that's going on. Did you feel like you were manipulated while you were in there?

G: While I was in there I don't recall that the subject of manipulation crossed my mind. I don't think I could have allowed myself to think that I was being manipulated.

J: Did you in fact feel that way?

G: I felt absolutely controlled. But my understanding of the manipulation, the coercion, comes later.

J: After one pulls back and views it from the outside.

G: Yeah, well, I mean, technically I was inside but I had really begun to deprogram myself and so...

J: Did you tie yourself up? I mean we all know about deprogrammings. You get tied up, and [...phrase]

S: ... sexually molest yourself.

J: Did you tie yourself up and sexually molest yourself?

G: Oh, I mean, deprogramming has to do with that subject of manipulation. While you're programmed you don't know that you are being manipulated. When you're deprogrammed you realize that you have been manipulated.

J: So in order to be deprogrammed, one has to be programmed.

G: Yeah.

J: Deprogramming doesn't work on somebody who hasn't been programmed.

G: I would think that's true.

J: Yeah. I would think so too.

G: Accepting the word and the definition.

J: When did you leave?

G: December '81.

J: Why?

G: It was time to go. (laughter)

J: Would you tell me a little bit more about that. I mean, I believe what you're saying but not everybody knows the Gerry Armstrong story. I think a lot of people might be most interested.

G: Ok. Well, I came to the point I guess a couple of weeks prior to that. I had been very vocal on the subject of the lies, Hubbard's lies, the organization's lies and the organization's activities. My vocalness had come to the attention of Norman Starkey. Norman Starkey at that time was on a mission operated by David Miscavige, the purpose of which was to take care of Hubbard's legal problems so that he could come out of hiding. Starkey one day came into my area, Hubbard archives area, and we had a conversation. He accused me of saying things about Hubbard which were untrue. One of the things he said was, Hubbard -- he wanted, Starkey wanted, to charge the PRs through the ages with creating the lies which I have documented.

S: Now hadn't that happened to a large extent? David, Lizzie and Laurel -- for a period of time, I don't know what happened to the whole thing, but they took the fall that they had made it up and they had written these falsehoods about L. Ron Hubbard.

G: But they weren't around in 1950 and 1952 and 1965...

S: No, but they were the ones who -- they had written down the biographical information on L. Ron Hubbard, how it was dictated to them by L. Ron Hubbard, per my recollection.

G: But they were not there. If you look at -- what's the book on the [...sentence] the nuclear physicist's book -- All About Radiation. If you look at that book and if you look at the bulletins that were written in that era it says, L. Ron Hubbard, a nuclear physicist. Lizzie wasn't there. Laurel wasn't there.

S: That's true. That's so true.

G: How can you say -- I mean, it's like one thing to make those people scape goats, but those people weren't there in '56. Laurel wasn't old enough to be there in '56. She was in our generation. I mean, you know, we're the 60's. We're the baby boomers.

S: Lizzie certainly wasn't there, either.

G: Anyway, what I did was showed Starkey in Hubbard's handwriting where he had called himself a nuclear physicist and Starkey just went silent and stormed out. A short time later I was called down to Gilman Hot Springs.

J: Do you think he had a major ARC break?

G: No, I think that he recognized that everything that he had put his life into for so many years and had done so many rotten things and attacked so many people in defense of it that he saw that that hung in the balance and he had to go one way or another. So he chose to close his mind. He wrote to one of the executives of Gilman Hot Springs and requested that I be sec checked.

J: This is the Golden Ere Studios, or Golden Era Studios.

G: Right, but at that time -- I'm not sure what it is now.

S: No, cause it's at Gilman's.

G: CMO headquarters...

S: This is at [...one word].

G: No, this is Gilman.

S: Oh, this is Gilman, ok.

G: Yeah, this is -- CMO headquarters, in any case. So I was called to Gilman and I spoke to Cirrus Slepp. She asked me about -- she actually showed me Starkey's report on me. I said that I -- I was quite open with her.

S: Now Starkey reported that you had fabricated this information?

G: No, Starkey reported that I was criticizing Hubbard and he wanted to find out what I had been saying and what documents I had been giving to Omar Garrison because I'm working closely with Garrison, and if I'm giving Garrison documents showing that L. Ron Hubbard claimed to be a nuclear physicist and L. Ron Hubbard lied about being a nuclear physicist and Starkey knew about many more lies...

J: The cat would be out of the bag.

G: Right. So he wanted -- they wanted to keep a lid on it. Cause his job, of course, is to continue the myth of L. Ron

Hubbard. Starkey's put a whole life into doing that. He's dedicated to that illusion.

J: Starkey got into Scientology in the 60's in South Africa. So he's been in a long time, probably 30 years. That's a long time to put in. It's at that point 20 years.

G: Right. And he was in a position of power. And he liked those positions of power. And this is, of course, some kind of a threat. I mean, here's just some guy down there making all kinds of noise and essentially calling L. Ron Hubbard a liar.

J: You know, one of things that I'd always thought about in Scientology was the is-ness, as-is-ness, alter-is-ness and not-is-ness. It says in order for something to survive or continue there has to be a lie in it. The question always came to my mind -- the first question that always came to my mind is, for Scientology to continue it must have a lie because it says so right here. In order for anything to continue it has to have a lie. So I always wondered what the lie in Scientology was.

G: The lie is Hubbard's philosophy. Hubbard's philosophy is flawed. It is a corrupt, dishonest philosophy. He was a corrupt and dishonest man.

J: You must hate his guts. You must hate his guts for a person who's been loyal...

G: That which will survive is that which can never be altered. That which is altered and that which is hence unreal, that which is a lie, will not persist. Now you can try and Hubbard can try but you will not get lies to persist.

J: That's true because there's always some truth under there and they'll pull the truth out for you cause it's fixed full of lies.

G: The truth will be there no matter what you do with it.

J: We need to go eat lunch, or dinner?

G: Oh, ok.

J: I think that you have an appointment.

G: Yeah.

J: Before we do that, let me ask you two quick questions.

G: Ok.

J: You left in '81.

G: Right.

J: You were sued in '84.

G: '82.

J: '82.

S: Jerry?

J: You went to trial in '84.

G: Right.

S: We should just think this out, because...

J: We will.

S: Ok, I [...one word] started...

J: We will. But, I just want to get this on here. They lost the suit against you.

G: Right.

J: In '86.

S: Big time.

J: In '86. They sued you in '82. Went to trial in '84. In '86 they settled out of court with you.

G: Right.

J: For hundreds of thousands of dollars, if my sources are correct, and you don't need to verify ... or hints at all, if you can let us -- if you want to, it's fine. There's no reason to give anything. If my sources have been correct you got $800,000. You -- Scientology paid you $800,000 because you knew the truth about L. Ron Hubbard. You knew the truth. And you've been harrassed and followed. You've been lied about. You've had people watch you 24 hours a day for weeks on end. You've had to go through extreme mental pressure today, yesterday, even. Gene Ingram says things to you like, "Gosh, Gerry, you look like you have AIDS," when in fact you're a very healthy person and you're a marathon runner. It's...

G: Right.

J: Gentlemen in sight, but, these other things they're doing.

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G: Right.

J: These guys are still harrassing you.

G: Right.

J: And you were a loyal, loyal, Sea Org member. Never in your wildest dreams did you think, when you got into Scientology, you dedicated your life to this, if ever they had put you in this position.

G: Right.

J: Thanks. Can we continue this?

G: Yeah.

J: Thanks.

G: Thank you.

[RESUME TAPING]

S: Gerry, you left in '81.

G: Right, December '81.

S: Can you tell me what led up to your departure from Scientology?

G: Sure. I had come to the conclusion at the end of '81 that the organization was not going to reform its ways, it was not going to correct the lies L. Ron Hubbard had told about himself. L. Ron Hubbard was not going to correct the lies he'd been telling about himself. The organization was not going to change its -- what I considered -- criminal and anti-social behavior. I knew that my days were numbered, that I could not continue to be in the organization taking the stand that I had been taking, being vocal on the subject of Hubbard's lies. So I really was faced with only one choice to make and that was to leave. So, I carefully, cautiously, and over a period of a week or ten days removed my few belongings and my wife's few belongings out of the building and cleaned our living space before we left. Left a few pieces of Sea Org uniform that I had, and we drove away.

S: I see. Now didn't you at this time do something rather brazen which is like -- didn't you keep some of the documentation for some period of time and send copies to the church or vice versa kept copies and sent stuff back to the church?

G: No.

S: No?

G: No, I didn't. I worked very diligently and my wife Joyce -- and Jocyln -- worked very diligently for the last couple of weeks copying whatever we could copy of the documents which I had in archives, many of which I had already copied and already provided to Omar Garrison, but I was dedicated to Garrison. I sensed, or knew, that whoever took over the biography project after I left, and I assumed it was going to be Vaughn Young, because he'd been working with me on the project at that time and it was my expectation that he was going to take over the project, that the organization once I left would not allow Garrison the access to the materials that I had so my dedication to him, my dedication to the biography project and my dedication to the attempt to bring to light the truth brought me to copy everything I could, and what I couldn't copy and all the copies that I had remaining, I took to Garrison at the end. So I provided them to Garrison and then Joyce and I drove up to Canada. At that time we were completely documentless. I did not have any documents. Didn't do anything with the documents for a period of time.

There came a time some months later because I began to work for Garrison outside the organization that I, at his request, copied a lot of the copies which I had given to him because he wanted to set up a separate archives because he felt that the organization was going to burglarize his place and steal the materials that I had provided to him.

So, that second set of materials was what I again provided to Mike Flynn, or sent to Mike Flynn, after I knew that the war with the organization had started the spring of 1982.

So, the organization's claim that I stole all these documents -- that's simply not true. I was under contract to provide the documents that I could to Garrison and I performed pursuant to that contract. It was only as a result of the organization's declaring me an enemy -- I knew that I was then fair game. I knew that the battle had been engaged. I took it as what was the only sane thing to do. Anticipating a legal battle. In fact I was told to get a lawyer. I did. I got Mike Flynn.

S: So, then, how did it progress from that point, the legal battle?

G: Through the late spring of '82 and into the summer I provided sets of documents as I was able to get them from Garrison and copy them. I sent them to Mike Flynn. Some of the documents that I sent were some of the originals which I had provided to Garrison.

Some of the originals I provided to Garrison because he needed, or, we felt, that it was very good to have originals because he was considering including copies, photographs of the original documents in the biography, some of the things which were in Hubbard's handwriting and on the original paper would have been great included in the biography. So some of them he had for that reason. Some of them he had because I just didn't have time to copy them. It was our intention that Garrison would copy them and he'd provide -- give the originals back to the organization.

But some of the documents were originals, but most of them were copies which I provided to Flynn.

S: Now up to this point Mr. Garrison had been, as you'd stated before, an ally of the church. Did he also -- was he becoming disillusioned with all this newly discovered information?

G: I think he was -- he wasn't probably as illusioned as I thought he was. He really was an intelligent man living on the outside of Scientology, and had provided as a writer service for them in doing the books that he'd done. But he thought his own thoughts and he was independent of Scientology. And he is a -- he's a fighter in his own way, so he had already had his own battles with Scientology just to arrive at the products that he'd done.

So it came to him as really no surprise. It was a surprise to me that it was no surprise to him. He was pretty real about the whole thing. But, he did begin to understand that he had possession of very sensitive documents and that the organization would then consider him, if not an enemy, certainly a major security threat in that he possessed these very sensitive documents.

S: So, you went to court. The Church filed suit against you, am I correct?

G: Yeah. August '82.

S: You countersued.

G: Right.

S: This was a big suit. I mean this was well covered in the LA Times. This was a very big, visible suit. Can you tell me how that progressed and what the outcome was? Who all was involved?

G: Sure. They sued me in August of 1982 seeking to recover

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the documents which I had sent to Mike Flynn, and seeking damages. The causes of action were conversion. They considered that my providing -- initially they claimed that my providing the documents to Omar Garrison was conversion because they did not know at that point that I had retained a copy of the contract to show that Garrison legitimately had the documents and that I legitimately had given Garrison the documents.

I defended the suit initially by stating that the documents were not the organization's documents but were L. Ron Hubbard's documents and L. Ron Hubbard should bring the lawsuit but L. Ron Hubbard would not come out of hiding, and he was afraid to come into court. So then Mary Sue Hubbard intervened on his behalf. She claimed a proprietary interest in the documents.

That was the initial stage of the lawsuit. The judge in Superior Court -- I think it was Judge Coale, then ordered the documents which I had provided to Mike Flynn and to my other lawyers [...two names] in Woodland Hills -- he ordered those documents be delivered to the court and they stayed in the possession of the court through the lawsuit, through the pendency of the lawsuit up until the time of settlement which was December 1986.

So, they initially sued me, and then I filed a counterclaim for the intentional infliction of emotional distress and for fraud. That then, the two cases were bifurcated -- they were split apart so that initially all that got tried at my trial, the Breckenridge trial in the spring of 1984 was their lawsuit against me. Out of that came the famous Breckenridge decision in which he found that because of my knowledge of fair game, of organization intelligence operations and of the fraud of L. Ron Hubbard that I was justified in going to Garrison, getting the documents that I knew about and sending them to my lawyer. That was the result of that trial.

My case against them...

S: Was that a jury trial?

G: No, judge trial [...one word]. My case against them did not go to trial because that was settled. It was scheduled to go to trial. At one time in December of '86, then in early 1987. In large part because it was scheduled to go to trial the organization settled it.

S: Now I know a lot of other executives at the time sort of -- I wouldn't say rallied around you, but, came to witness against the Church during this time.

G: Right.

S: And that was a big thing at the time because these were some of the senior most executives of the church.

G: Uh huh. Laurel Sullivan who'd been Hubbard's public relations officer and whose history went back with him through the Sea Org. Bill -- sorry, Bill Franks wasn't there. Homer Schomer. Eddie Walters.

S: Kima, didn't Kima..

G: Kima testified. Nancy Dincalci. So a number of them were, really my friends. People who I'd known inside the organization and outside the organization. A group of friends who were quite close to me and who had the courage to come forward and testify.

S: That's great. Now, your suit settled and -- bring us up to date to this point as well as how you feel retrospectively about the whole situation, what you would like to do now, are you under a gag order presently? Are you not?

G: I'll give you the answer.

S: Ok.

G: From 1984 after the Breckenridge decision there were a series of events -- operations that the organization mounted against me to compromise me, to set me up, to get me charged with false criminal charges, any number of things. The onslaught...

S: 1984, that was during the trial -- during your case or prior to your case or after your case?

G: They began before -- in 1982 they had PIs on me, I was assaulted, I was driven into. They tried to get me in a highway accident. They harrassed me day and night for well over a month. As a result of the court's commenting about this kind of activity, they backed off. They kept up the legal onslaught and they deposed me in any number of cases and within my own case. They ran operations against me.

It was really after my trial in 1984 when they escalated the war. They sent around my friend Dan Sherman. You may know him. I liked Dan. We were really close. We hung out a lot. But the whole thing was an operation to get Dan close to me so that I could be set up. What they tried to do through Dan was to convey to me the idea that there was a group of people inside the organization who wanted to reform it, who wanted to get rid of the criminal element at the top of the organization and have it revert to its pre-Guardian's Office, pre-criminal days. Get rid of the criminality.

S: Now, so at this point, were you supportive of that effort, on Danny's part?

G: Well, at first all it was was him telling me that there was this group of people and then he would send me messages from them. Then gradually I built up a relationship with them. These people claimed to be a core group of 35 people inside the organization who were working covertly because of their fear that should it become known that they wanted to reform the organization they said they were afraid for their lives.

S: So at this point despite everything you knew about Hubbard you must have had some faith in the technology of Scientology. Or am I wrong? Am I mistaken? I mean if you thought well we can restore this organization to its original intention to be, you know, this may be *

GA: No. No, it's more like downstairs here there could be any number of Catholics, Protestants, Jews or whatever, but (inaud) my support to causes they're involved in. It's that sort of way. I did not consider myself a Scientologist, but, if Scientologists want to continue to be Scientologists and at the same time clean up the criminal element in the organization I can support that without myself being a Scientologist. So I supported their intention of reforming the organization. I didn't know who they were. I'd never spoken to them so it was sort of a support from a distance -- there was nothing to do. He was relaying this information to me.

Then they initiated a dialogue with me. They wanted to communicate with me. They would send messages via Dan, the message that they really respected me for what I did, the integrity that I showed during the trial, and so on. Like on a phone call one night from one of these guys just after the trial and just the day before I was to fly to London to testify in a child custody case, the one that Jolly West quoted from today, the Latey decision came out of that trial. I went over there to testify. Well the night before I received a telephone call from one of these people claiming to be one of the 35 Loyalists. He said, "We can get your pc folders. We know you want your pc folders. We can get them for you." "Oh, ok. What do I have to do?" "Oh, well you'll have to drive to a certain place in Los Angeles..."

S: [...phrase]

G: No, this was a different -- I never went, I never bit. I never rose to the bait on that occasion. I said, "Well, to me this could be construed as accepting stolen property and it also could be an attempt to stop me, because of the times that were involved, to stop me from flying to London, cause they did not want me testifying in the trial. I said, "As much as I'd like the pc folders I can't do it." In any case I flew to London to testify. There, in London, I was harrassed at Heathrow Airport by private investigators. They, in fact, wrote sworn affidavits that I was observed passing sealed documents to a bearded Arab in the Old Cock Tavern, pardon me, on a particular Tuesday night. I had in fact been at the Old Cock Tavern for lunch on the day previous but I was not there on Tuesday night. The whole thing was concocted, but that's true to form of Scientology, you know, manufacture evidence. A Scientology operative will swear to anything. The fact that it's a sworn affidavit doesn't mean anything. It was just another piece of the ongoing operation to compromise and set me up.

I returned to the U.S. and then I was contacted by two people. One of them was David Kluge, who I only knew at that time as Joey. The other one was Mike Rinder, who I'd known from inside the organization in the Sea Org. Both of them -- all this was video taped, illegally, covertly, by Gene Ingram. I didn't know at the time and I talked to them like I ...

S: This was the meeting in the park.

G: Right.

S: The famous meeting in the park.

G: Right. You know there was a series of meetings in the park but I talked to them like I talk to you and I -- you know my language was atrocious. I made bad jokes. Just rotten. I had a foul mouth at the time. But I was also -- you know, I mean, I could pick up that there was something weird going on because what they would tell me off camera seemed to be so different from the questions that they're now we're sitting on a park bench and they're talking to me. I was completely open about the whole thing, but I also knew that there was something weird about it so a lot of what I was saying on the video tape reflects that aspect of the thoughts that are going through my mind about how strange this is.

But there are some really funny things that occurred. If you've never seen the videos, they're very, very funny.

S: You know I don't know in truth that the videos were ever shown. What I do know is that a transcript of these meetings was published in Freedom News Journal.

G: Right. In part, part of it.

S: In part. But it was very interestingly written because it would say -- it would have a quote and it might be a sentence, and then it would say, "And then he said..." and the rest was all just like editorialized, "And then he said this and this and de-de-de-de-de-de-de-de-de." And then there's a quote. I felt, "Well, if he said these things why didn't you just publish the dialogue? Why are you giving me your interpretation of what he actually said?"

J: True to form.

S: Of course. It amused me. I was still involved in Scientology. Still a believer. I saw this. I have to tell you, this shook me, cause I went, "This is nuts." Who could ever believe this article? I was truly, truly committed to the organization at this point. But it really made me go, "Puleeze, this so discredits them. Why would they do this this way?"

G: When they first broke the videos in 1985 up in the Christofferson trial, before they were shown to the jury the judge viewed the first two videos. He viewed them in his chambers, then he came back out and he said, "These are very damaging, damaging to the church." Right. They polled the jury after the trial. They said that the video tapes of me only proved one thing. That was that fair game was alive and well in 1985.

So, the Scientologists are so blind. Here's the way I think it went down. People are reporting to Hubbard through this time that they have an intelligence connection to Armstrong. Hubbard hates Armstrong, you know, cause I've been saying all these things. They've been telling him that I took the documents.

S: [...phrase]

G: Right? I mean, out of what I did came the Breckenridge decision which stated, "This guy is a paranoid, schizophrenic." Just the worst thing that he ever wanted to hear. But true.

But the organization could never tell Hubbard the truth. Hubbard never could hear the truth, so there's a perfect situation there for Hubbard to get a partial truth and it always happened inside the organization. Then he would issue an order. He would issue an order in this case, like, "Get that into evidence. That'll destroy Armstrong." Because they're telling him, "We've got video tapes of Armstrong saying 'this,' and of course, they take one line out of context." But that's the big win that they want to convey uplines to Hubbard.

Of course, Hubbard doesn't get the whole picture, but now he has issued an order. Now they have to jump through the hoops to get those video tapes -- illegally taken, and the judge stated up in Oregon, these things are illegal. They fought to get them in. After the judge said they're damaging against the church, does anyone care? I had to go through the incredible embarrassment of my foul mouth, and I didn't know, you know, did I pick my nose, you know -- how did I? You know there's four hours of video tape where I was just a total jerk.

S: (Laughter) Damn right!

G: But I understood after a while I really -- it was terrible to me. After the Christofferson trial. When I knew that my friend, Dan Sherman had set me up, that the whole thing was a set-up, that they'd video-taped all of this stuff, the betrayal was so awful to me. I was suicidal for just days. I walked out of the courtroom. The judge got rid of the jury, sent everyone home, and he was really watching these things in there. And I'm just sitting, I'm alone out there in the courtroom there for an hour and then someone, the Scienos' lawyers walked in and made some complaint about me even staying in the courtroom and so I walked outside.

We were on the third floor of the courthouse. The stairs came up like this onto the third floor and they went around like that so there were two places where you could look down three floors onto the marble floor below. It looked just far enough that it could do the job just smack! I really considered it for a long time. I walked over to the railing of one of these areas and I looked down, and I was just contemplating just ending it right there. Then I realized that down below was a set of pay phones and that if someone crossed over there to the payphone and I realized, you know, here I go to end it all and I take some innocent guy out walking to the payphones, so I couldn't do that so I walked over to the other one, thinking here's an opportunity. There was a bank of Coke machines. So I was just out to save some other poor guy. I didn't take my own life at the time.

It was horrible. I came just so close. In my heart, there was incredible pain. One night I couldn't sleep and there was PAIN and so I couldn't breathe. It was awful. It went on for some days over a weekend and then into the next week. I went back to the stand for 10 days, 7 or 8 of which were cross-examination. The Great Earle the Pearl Cooley.

So that's what happened in 1985 and they just continued after that. Then they culled my pc folders. They said all the most scurrilous stuff out of my pc folders. And they filed that stuff in my case in LA Superior Court.

S: Well, you had to have of known that that was going to happen.

G: Well, you get a sense but you really can't believe it until you see it. And then you can't believe the twists that they and their lawyers put on it. There was this dream I had. I had a dream up in Portland in '85 and this. I have had very few memorable dreams in my life and only one or two of them have I ever written down. And this one was so vivid and so memorable that I wrote it down. I wrote it, I think, very concisely. It was some of my very best literature because it is really tight and really good. It was also really foul. The language, the concepts were just grotesque. But it was a great dream. I sent it to Dan Sherman because he's my literary buddy. It ends up the Scinos get it and they got that! And they want to put THAT into evidence in the Christofferson trial!

That one followed me this last year it showed in Johannesburg in South Africa. The organization provided it to the lawyers over there to attack me with. A dream! And they twisted that that the fact that I had a dream was the proof of what a perverse, distorted guy I was.

There was a series of things. When I first arrived in Boston, in September of '85, October '85, they brought criminal, they attempted to bring criminal charges against me with the FBI for impersonating an FBI officer. Five times they brought either flat out criminal, or quasi-criminal contempt charges against me. And they tried the same thing in Marin County.

S: Gerry, tell me something here for a minute. What motivates you. Why on earth wouldn't you say, "I did this. I messed up. I made a wrong choice. I'm just going to go away now. And have my life! I have my wife and I have our birds and..." whatever you guys have, I'm trying to remember. I used to get Christmas cards from you - I think you had birds or cats or something.

G: Yeah! We have birds. We taught that little guy to talk.

S: Nicky?

G: Mikey.

S: Mikey.

G: Right!

S: I know you were.

G: There was a period of time, December '86. It was the time of the settlement. And we'll get back to the settlement in a minute.

I felt that I really could get on with my life. I could do a number of other things. I began to, I mean I'd always written, but I wrote seriously. I drew seriously. I spent a lot of time doing my things. I had my own life. And I maintained communication with my friends who I did not disconnect as a result of the settlement. The organization may have felt that I should have or that I had to or that I was contracted to but I didn't do that. But I really had my own life and I wasn't involved in anyone's litigation. And I didn't have to do anything about them for a period of time.

But the organization couldn't quit. They couldn't let the Breckenridge decision stand. They couldn't let my image stand, whatever I represented to them so they continued to attack. They continued in a false -- what they call a Dead Agent pack that they put out against Bent Corydon in 1987. They did it in the Russell Miller case, London in 1987. They filed 8 absolutely false, scurrilous affidavits regarding me, specific to me in that case.

S: And this was post-settlement agreement.

G: Post-settlement agreement. Gene Ingram provided an edited version of the video tapes -- the illegal video tapes to the London Sunday Times.

S: Can I ask you something? In this settlement, does it clearly state that this was not allowed? In the settlement agreement? I mean, were they thus in violation of the settlement agreement?

G: In my opinion, yes! Because the settlement agreement, unless it worked two ways, didn't work at all. But if it was only one-way, then they relieved me of any duty to perform by their doing that. In other words, they cannot -- if the settlement agreement was only a lop-sided, one-sided settlement agreement, that's fine! I honor it and I'm silent. I don't do anything to violate it. Then everything works fine as long as they don't. But as soon as they, in a new, as they would say, unit of time do something, I clearly have the constitutional right to respond and speak out. They waived the right that they had to remain silent whether it said they had to remain silent or not.

Additionally --

S: Did it say? That they did? I mean, was it one of those agreements that Okay, we're just going to both let by-gones be by-gones?

G: Exactly the words in it, yes. Any one would interpret it that way. And anyone did. But THEY interpret it by saying --

S: You should let bygones be bygones and get over it but they didn't have to.

G: Not only that! That they have a right to say whatever they want that I must remain silent even if they can say that I was an ax murderer? And I must remain silent! It doesn't work. But not only that, I realized that my silence was in fact an obstruction of justice. Because all of those people who depended on my testimony, and I have great testimony regarding the fraud of Scientology, was vital to anyone who'd been defrauded by Scientology. So I felt that I really have a right and a duty now to stand up to the organization. If I did not --

S: So you were feeling like you were getting over it and you wanted to leave it alone and you wanted to get ahold of your life, for a period of time until they began to lash out at you, at which point you said, "Hey, I don't need to lay down, run over me."

G: There was a series of -- even though they published the Corydon Dead Agent pack, even though they published the material in the Russell Miller case in 1987, shortly after the settlement agreement, I didn't do anything. I didn't do anything until I got a series of telephone calls from Larry Heller, organization attorney threatening me with law -- with being sued if I were to even testify pursuant to a subpoena. So I knew at this point, "This has gone too far." And what happened was I was subpoena'd to testify in a deposition in the Bent Corydon case. Toby Plevin subpoenaed me. Now I had maintained some communication with Bent because he is my friend. I had not assisted him in any way in his litigation because I had agreed not to do that but I knew that if he subpoenaed me, that that was senior to whatever settlement agreement existed.

Another aspect of the settlement agreement that you should know, was that I was told before signing it by my lawyer, Mike Flynn, that it was "not worth the paper it is printed on. You do not have to obey this. It cannot be enforced." So I signed in large part because Mike Flynn said that.

Now, in addition to that, Mike Flynn had told me through time -- and I had grown to understand that 1) the organization had attempted to assassinate him 2) it had destroyed his marriage and 3) he had to get out of the litigation for those reasons. So I was faced with, if I don't sign, then all of these other people don't get to settle, my lawyer can't get out of the litigation, it's going to go on forever, and in addition to that, I've been told by my own lawyer it's unenforceable, it's not worth the paper it's printed on. So sure, I'll go ahead and sign this thing and I will even attempt to honor it knowing that the only hope for a settlement with that organization is if they do change their spots if they do indeed turn over a new leaf, if they do indeed repudiate fair game. They haven't done it. Hence we now are again locked in battle.

S: Now what is your litigation with the Church of Scientology?

G: They brought a lawsuit to attempt to enforce the settlement agreement. In May of this last year, there was a hearing here in Los Angeles in front of Judge Sohigian. The organization claims that they got a great big win out of it and that I am enjoined pursuant to the settlement agreement. Not true! Judge specifically said that he would not enforce the settlement agreement other than one very narrow issue. The very narrow issue is that I cannot except pursuant to a subpoena, assist someone intending to file a claim or pressing a claim against the organization. Now that we are appealing even that narrow ruling, because that's unenforceable because if you construe that my... that this video could possibly indirectly help someone in the future, I can't do this. And not only that but if you consider that my existence indirectly or directly helps someone, then I'll oblige to take my own life. In other words then I must stop breathing. It's unenforceable hence I feel that I am completely at liberty to associate with whomever I want, to talk to whomever I want, and I act in life that way.

And that is in part why I am here at this event now, why I came to the CAN Conference.

S: OK, so what are your further plans? I mean, you're doing great, now.

G: I want to run a 236 marathon.

S: 236 what? 236 yards?

G: 2 hour and 36 minutes marathon. And I want to..

S: That's what you do, you run.

G: I run. So I want to do that. And I want to end the litigation and I want, you know, peace for everyone. I want to reform the economic system of the world and that's mainly it. I don't have any designs on the U.S. presidency.

S: Presently.

G: I can't have, I'm Canadian.

S: That's right.

G: OK are we done here?

End of Tape.

Marin I[illegible]ependent Journal, Wednesday, Nov[illegible]er 11, 1992

IJ photo/Frankie Frost

**CASH CRITIC:** Gerald Armstrong of San Anselmo reflects on how the world would be a better place without money

# Is money the root of problems?

## Critic of cash, credit urges monetary abolition

**By Richard Polito**

*Independent Journal reporter*

Gerald Armstrong has an idea for dealing with the national debt — write it off. Forget it. It doesn't exist.

It's that easy.

The novel prescription for fixing the fiscal fiasco is only part of Armstrong's larger message that money should be abolished. No more pay checks, no more loan payments, no more taxes, and forget that $20 you owed your brother-in-law.

Bank presidents would clean up litter. Donald Trump could get a real job. The Financial District would be a ghost town with marble lobbies — and lots of parking.

And it all starts today.

In a rare moment of realism, Armstrong admits today's deadline "is probably not going to be achieved."

### Renouncing cash, credit

Armstrong, self-proclaimed founder of the Organization of United Renunciants, set the date for people who have taken his "pledge of renunciation" to stop using money. Fellow renunciants will renounce all cash and credit, stop taking money, stop paying with money, forgive all their debts and stop keeping financial records.

The critic of credit has already put his money where his doubts are. He gave it all away. And it was more than pocket change.

Armstrong won an $800,000 settlement in a harassment suit against the Church of Scientology six years ago. Once a member of the inner circle, he is now a vocal critic.

Armstrong doesn't expect everyone to buy in from the start, just "somewhere between 1 and 11 percent."

He's a tad short. Armstrong can count only a handful of friends as converts, but he is trying to get the word out. Detailed proposals have gone out to Bill Clinton, Ross Perot and Pete Wilson (no one has tapped him for an economic advisory post just yet.) He has also written to the New York Times and other mega-media.

Ted Koppel has not called.

### Money considered valueless

Armstrong is not discouraged.

The monetary messiah insists there is much about daily life that will not change. People will still go to work, shop at the market and pick out a new car every few years. They just wouldn't exchange any money along the way.

Money, in Armstrong's eyes, has no value and the existence of money has created entire industries that do nothing more than transfer mythical essences of value from one account to another.

In Armstrong's cashless Utopia, there would be total employment because people could do jobs they wanted to do and companies could employ more workers because they would not have to pay them. Farmers would still farm. Autoworkers would still make cars. Sewer workers would still shovel sludge.

And Disneyland would no longer charge admission.

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO
235 Montgomery Street
Suite 450
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(415) 391-3900

Laurie J. Bartilson
BOWLES & MOXON
6255 Sunset Boulevard
Suite 2000
Hollywood, California 90028
(213) 661-4030

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

| | |
|---|---|
| CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation;<br>Plaintiff,<br>vs.<br>GERALD ARMSTRONG; DOES 1 through 25, inclusive,<br>Defendants. | Case No. BC 052395<br>NOTICE OF RULING |

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on May 28, 1992, the Honorable Ronald M. Sohigian, Judge of the Los Angeles Superior Court, entered an Order granting in part plaintiff's motion for preliminary injunction. A true and correct copy of the order so entered is attached hereto as Exhibit A.

PLEASE TAKE FURTHER NOTICE that plaintiff has posted the undertaking referred to in paragraph 7 of the Order, evidence of which is attached hereto as Exhibit B.

DATED: June 5, 1992

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

BOWLES & MOXON

By: ______________________
Laurie J. Bartilson

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

Exhibit A

DEPT. 88

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992
Honorable Ronald M. Sohigian, Judge
1

M. Cervantes, Deputy Clerk
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International
vs.
Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

**NATURE OF PROCEEDINGS:** RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

In this matter heretofore taken under submission on May 27, 1992, the court now makes the following ruling.

1 Plaintiff's legal remedies are inadequate insofar as the scope of relief ordered below is concerned, but not otherwise. CCP 526(4) and (5).

2 The threatened acts which are restrained by the order referred to below, but only those threatened acts, would do irreparable harm to plaintiff which could not be compensated by monetary damages. CCP 526(2).

3 On the basis of the instant record, there is a reasonable probability that plaintiff will prevail after trial of this case in the respects restrained by this order. CCP 526(1); cf., San Francisco Newspaper Printing Co., Inc. vs. Superior Court (Miller) (1985) 170 Cal. App. 3d 438.

4 Plaintiff is likely to suffer greater injury from denial of the preliminary injunction the terms of which are set out below than the injury which defendant is likely to suffer if it is granted. See Robbins vs. Superior Court (County of Sacramento) (1985) 38 Cal. 3d 199, 206.

5 The granting of a preliminary injunction in the terms set out below will preserve the status quo pending trial.

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992
Honorable Ronald M. Sohigian, Judge
1a

M. Cervantes, Deputy Clerk
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International
vs.
Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

**NATURE OF PROCEEDINGS:** RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

6 Application for preliminary injunction is granted in part, in the following respects only.

Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of court from doing directly or indirectly any of the following:

Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986 regarding such claim or regarding pressing, arbitrating, or litigating it.

Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.

The court does not intend by the foregoing to prohibit defendant Armstrong from: (a) being reasonably available for the service of subpoenas on him; (b) accepting service of subpoenas on him without physical resistance, obstructive tactics, or flight; (c) testifying fully and fairly in response to properly put questions either in deposition, at trial, or in other legal or arbitration proceedings; (d) properly reporting or disclosing to authorities criminal conduct of the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986; or (e) engaging in gainful employment rendering clerical or paralegal services not contrary to the terms and conditions of this order.

DEPT. 88

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992
Honorable Ronald M. Sohigian, Judge
1b

M. Cervantes, Deputy Clerk
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

vs.

Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

**NATURE OF PROCEEDINGS:** RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

The application for preliminary injunction is otherwise denied.

7 The restraints referred to in sec. 6, above, will become effective upon plaintiff's posting an undertaking in the sum of $70,000 pursuant to CCP 529(a) by 12:00 noon on June 5, 1992.

8 The restraints referred to in sec. 6, above, properly balance and accommodate the policies inherent in: (a) the protectable interests of the parties to this suit; (b) the protectable interests of the public at large; (c) the goal of attaining full and impartial justice through legitimate and properly informed civil and criminal judicial proceedings and arbitrations; (d) the gravity of interest involved in what the record demonstrates defendant might communicate in derogation of the contractual language; and (e) the reasonable interpretation of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986. The fair interpretation of all the cases cited by the parties indicates that this is the correct decisional process. The law appropriately favors settlement agreements. Obviously, one limitation on freedom of contract is "public policy"; in determining what the scope of the public policy limitation on the parties' rights to enforcement of their agreement in the specific factual context of this case, the court has weighed the factors referred to in the first sentence of this section. Litigants have a substantial range of contractual freedom, even to the extent of agreeing not to assert or exercise rights which they might otherwise have. The instant record shows that plaintiff was substantially compensated as an aspect of the agreement, and does not persuasively support defendant's claim of duress or that the issues involved in this preliminary injunction proceeding were precluded by any prior decision.

DEPT. 88

**SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES**

Date: May 28, 1992
Honorable **Ronald M. Sohigian,** Judge
1c

**M. Cervantes, Deputy Clerk**
**None** (E.R.M.)

---

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

vs.

Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

---

**NATURE OF PROCEEDINGS:** RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

9 The court does not dispositively decide the underlying merits of the case except for this preliminary determination. CCP 526(1); Baypoint Mortgage Corp. vs. Crest Premium Real Estate etc. Trust (1985) 168 Cal. App. 3d 818, 823.

10 Plaintiff is ordered give written notice by mail by June 5, 1992, including in that written notice a statement regarding whether plaintiff has or has not posted the undertaking referred to in sec. 7, above, and attaching to that written notice evidence showing that the undertaking has been posted if that is the fact.

DATED: May 28, 1992.

RONALD M. SOHIGIAN

RONALD M. SOHIGIAN
Judge of the Superior Court

A copy of this minute order is sent to counsel via United States mail this date.

Exhibit B

## MISCELLANEOUS RECEIPT

SUPERIOR COURT
LOS ANGELES COUNTY
CALIFORNIA

CUSTOMER'S RECEIPT

M 087505

CASE NO. BC 052395

SUPERIOR COURT DEPARTMENT ~~Filing~~ Finance

DATE 6/5/92

RECEIVED FROM Bowles, Moxon

INDICATE WHICHEVER APPLIES

ATTY. FOR ☐ PLTF ☐ DEFT ☐

$ 70,000.00

Seventy Thousand only DOLLARS

FOR Dep. per minute order Filed 5/28/92
Undertaking

CASH jers CHECK 097688 MAIL # ____

Church of Scientology PLAINTIFF
VS
Gerald Armstrong et al. DEFENDANT

DEPUTY

76M 4/0 (REV. 8-85) 9-85
G-054

# PROOF OF SERVICE

STATE OF CALIFORNIA )
) ss.
COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, CA 90028.

On June 5, 1992, I served the foregoing document described as NOTICE OF RULING on interested parties in this action as follows:

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] a true copy thereof in a sealed envelope addressed as follows:

Paul Morantz **BY U.S. MAIL**
P.O. Box 511
Pacific Palisades, CA 90272

[X] BY MAIL

[X] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[ ] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on June 5, 1992 at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such envelopes by hand to the offices of the addressee.

Executed on June 5, 1992 at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Laurie Bartilson

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

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STATE OF CALIFORNIA )
) ss.
COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 235 Montgomery Street, Suite 450, San Francisco, CA 94104.

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[X] by placing [ ] the original [X] a true copy thereof in a sealed envelope addressed as follows:

Ford Greene **BY U.S. MAIL**
Hub Law Offices
711 Sir Francis Drake Boulevard
San Anselmo, CA 9490-1949

[X] BY MAIL

[X] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

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Laurie J. Bartilson

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

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COUNTY OF LOS ANGELES )

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[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] a true copy thereof in a sealed envelope addressed as follows:

Graham Berry **BY U.S. MAIL**
Lewis, D'Amato, Brisbois & Bisgaard
221 N. Figueroa St. Suite 1200
Los Angeles, CA 90012

[x] BY MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[x] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

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STATE OF CALIFORNIA )
) ss.
COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On December 31, 1992, I served the foregoing document described as EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE WHY GERALD ARMSTRONG SHOULD NOT BE HELD IN CONTEMPT; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATIONS OF LAURIE BARTILSON AND KENDRICK L. MOXON AND SUPPORTING EXHIBITS on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] a true copy thereof in sealed envelopes addressed as follows:

FORD GREENE
HUB Law Offices
711 Sir Francis Drake Boulevard
San Anselmo, CA 9490-1949

PAUL MORANTZ
P.O. Box 511
Pacific Palisades, CA 90272

[X] BY MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondece for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on December 31, 1992, at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on ________, 1992, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Matt Ward
Type or Print Name

Matthew
Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO
235 Montgomery Street
Suite 450
San Francisco, California 94104
(415) 391-3900

Laurie J. Bartilson
BOWLES & MOXON
6255 Sunset Boulevard
Suite 2000
Hollywood, California 90028
(213) 661-4030

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL

FILED
LOS ANGELES SUPERIOR COURT
DEC 3 1 1992
JAMES H. DEMPSEY, CLERK
BY M Cemarte, DEPUTY

C

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

| | |
|---|---|
| CHURCH OF SCIENTOLOGY OF INTERNATIONAL, a California not-for-profit religious corporation;<br>Plaintiff,<br>vs.<br>GERALD ARMSTRONG and DOES 1 through 25, inclusive,<br>Defendants. | Case No. BC 052395 157680<br>ORDER TO SHOW CAUSE RE CONTEMPT<br>2-16-93<br>8:30 a.m.<br>Dept. 86 |

FILED
NOV 16 1994
HANS
RIN COUN

TO: GERALD ARMSTRONG:

Good cause appearing,

YOU ARE ORDERED to appear in Department No. 86 of this Court, located at 111 North Hill Street, Los Angeles, California 90012, on ~~January~~ February 16, 1993 at 8:30 a.m., to show cause why ~~the order holding you~~ you should not be adjudged to be in contempt of Court ~~requested by plaintiff should not be made by this Court~~ for alleged violation of the court's order of May 28, 1992.

If ~~Plaintiff's motion is granted~~ you are held to be in contempt of court, you will be ~~ordered to held in criminal contempt of this Court~~, subject~~ed~~ to a fine not to exceed $1,000.00 and jail time not to exceed five days for each contempt, as this Court sees fit. ~~and further will be ordered to pay Plaintiff's costs, including attorneys' fees, in the bringing of the Application for Order to Show Cause Why Gerald Armstrong Should Not Be Held in Contempt~~.

Date: December 31, 1992

Ronald M. Sohigian

Judge Ronald Sohigian

RONALD M. SOHIGIAN

H:\ARMSTRONG\ORDER.OSC

# PROOF OF SERVICE

STATE OF CALIFORNIA )
) ss.
COUNTY OF LOS ANGELES )

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PAUL BRADFORD

Type or Print Name

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

644

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO
235 Montgomery Street
Suite 450
San Francisco, California 94104
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Laurie J. Bartilson
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**FILED**
LOS ANGELES SUPERIOR COURT
FEB 0 1 1993
JAMES H. DEMPSEY, CLERK
BY INNA R. MATTHEWS, DEPUTY

FIL
NOV 16 1994
HOWARD HAN
MARIN COUN

## SUPERIOR COURT OF THE STATE OF CALIFORNIA

## FOR THE COUNTY OF LOS ANGELES

157680

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

CASE NO. BC 052395

NOTICE OF MOTION AND MOTION IN LIMINE TO EXCLUDE EVIDENCE OF ALLEGED ACTIONS OF PLAINTIFF OR OTHERS WHICH PREDATE THE ORDER VIOLATED BY ARMSTRONG AT TRIAL OF OSC RE CONTEMPT ISSUED AGAINST DEFENDANT GERALD ARMSTRONG; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

DATE: February 16, 1993
TIME: 8:30 a.m.
DEPT: 86
DISCOVERY CUT-OFF: None
MOTION CUT-OFF: None
TRIAL DATE: May 3, 1992

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on February 16, 1993 at 8:30 a.m., in Department 86 of the above-entitled Court, located at 111 North Hill Street, Los Angeles, California, plaintiff will move and does hereby move this Court for an order excluding presentation by defendant Gerald Armstrong of any evidence on, or references to, alleged actions of organizations of the Scientology religion or their staff or parishioners which are irrelevant to the issues of this contempt trial.

Plaintiff seeks such an order on the basis that such alleged actions, which by definition are not relevant to the issue of defendant's wilful disobedience of this Court's Order of May 28, 1992, are not admissible under California Evidence Code § 351. Moreover, by its nature, such evidence is inflammatory, prejudicial and time-wasting. Thus, any probative value such evidence might have is substantially outweighed by the probability that its admission will necessitate undue consumption of time, create substantial danger of undue prejudice and confuse the issues. The Court should exercise its discretion under Evidence Code § 352 and exclude alleged "bad acts" of Scientology organizations, staff or parishioners which are unrelated to the narrow scope of this contempt hearing.

This Motion is based upon this Notice of Motion and Motion, the attached Memorandum of Points and Authorities, the exhibits thereto, the file herein, and such other and further evidence as may properly come before the Court at the hearing of this matter.

Dated: February 1, 1993

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

BOWLES & MOXON

By: Laurie J. Bartilson
Laurie J. Bartilson

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

## MEMORANDUM OF POINTS AND AUTHORITIES

## I.

## INTRODUCTION

On February 16, 1993, this Court is scheduled to adjudicate whether or not defendant Gerald Armstrong ("Armstrong" or "defendant") should be held in contempt of court for wilful violations of a preliminary injunction order issued in this case by the Honorable Ronald M. Sohigian on May 28, 1993 ("the Order"), Ex. A. In the underlying action, plaintiff Church of Scientology International ("the Church" or "plaintiff") seeks damages and a permanent injunction against Armstrong for breaches of a settlement agreement entered into by the parties in 1986 ("the Agreement").[1] The Agreement settled bitter litigation ongoing since 1982, when Armstrong left the Church, included non-disclosure provisions, and contains provisions prohibiting Armstrong from providing voluntary assistance to others engaged in or contemplating litigation against the Church and related entities and individuals. Armstrong's deliberate violations of these provisions led to the issuance of the Order.

Armstrong's response to this action has been to insist that the Church is not entitled to enforce the Agreement because the Church is "bad." Armstrong apparently feels that if he can throw enough wild accusations concerning the Church into a courtroom, he will be able to convince the court that he is not bound to follow contractual agreements which he makes or orders to enforce those agreements lawfully issued by the court.

---

[1] Armstrong has cross-claimed, seeking declaratory relief excusing him from performing the Agreement, and claiming "breaches" of the Agreement by CSI which do not relate to any articulated portion of the Agreement. Armstrong has never offered to rescind the Agreement, however, or to return the $800,000 which he received as his portion of the settlement.

At the hearing on plaintiff's motion for preliminary injunction, for example, Armstrong's historical recitations and accusations were presented in the form of thousands of pages of irrelevant documents, and hours and hours of the Court's valuable time was spent considering these documents, and rejecting most of them as not relevant. After two days of hearing, the Court issued an Order which found that the Agreement was lawful, that plaintiff was likely to succeed on the merits of its underlying action, and that Armstrong needed to be enjoined from continuing to violate the terms of the Agreement.

The character of the Church, the practices of the Scientology religion, and any alleged actions by the Church, are simply not relevant to a determination of whether or not Armstrong violated the Order - nor are allegations concerning the previous litigation between the parties, or concerning other persons not parties to this action. Indeed, actions of anyone prior to May 28, 1993, are not relevant to such an inquiry.

Because Armstrong has, throughout this litigation, done nothing but attack the Church and its parishioners, plaintiff seeks to prevent Armstrong, prior to hearing, from distracting the Court by endless recitations of such accusations, or from attempting to introduce evidence concerning irrelevant matters.[2]

---

[2] Armstrong's allegations are uniformly based on hearsay, innuendo, and speculation, rather than substantive evidence. Nonetheless, when such ill-founded accusations are hurled about a courtroom, their prejudicial effect is obvious. The Church has disobeyed no court order, and is not the subject of the Order to (continued...)

The purpose of the February 16 hearing is to determine whether or not Armstrong has wilfully violated the Court's May 28 order. Events, actions or allegations which relate to conduct of the plaintiff, persons not parties to this action, or which concern matters allegedly occurring prior to May 28, 1993 are simply not relevant to a determination of this narrow issue. Accordingly, plaintiff moves in limine that Armstrong be precluded from introducing such evidence during the contempt hearing.

## II.

## THE NARROW FOCUS OF THE COURT'S INQUIRY REQUIRES THAT ATTEMPTS TO INTRODUCE EVIDENCE OF ALLEGED ACTIONS OF PLAINTIFF OR OTHER SCIENTOLOGY CHURCHES, NOT RELATED TO THE ORDER TO SHOW CAUSE, BE REJECTED

The Order to Show Cause is based on a declaration and memorandum, filed by the Church, which outlines multiple specific instances in which Armstrong has violated the Order, and which demonstrates that the violations were wilful. These alleged violations form the narrow framework for this Court's inquiry. Indeed, the only issues to be decided at the hearing on the Order to Show Cause are those raised by a charge of indirect contempt: (1) Was a lawful order made by the Court? (2) Did Armstrong have knowledge or notice of the order? (3) Was Armstrong able to comply with the Order? and (4) Did Armstrong, nonetheless,

---

[2] (...continued) Show Cause issued by Judge Sohigian. It should not be required, in its rebuttal case, to present witness after witness to demonstrate that Armstrong's accusations are false, or that the Scientology religion is "good" rather than "bad." This is the spectra which the Church sees, and which this motion seeks to prevent.

willfully disobey the order? Crawford v. W.C.A.B.. (1989) 213 Cal.App.3d 156, 169, 259 Cal.Rptr. 414, 422-423.

From Armstrong's conduct in pre-trial proceedings in this case, however, it is likely that he intends to attempt to introduce at the contempt hearing evidence of matters unrelated to the violations for the purpose of poisoning the record and obscuring the relevant issues.

At the hearing on plaintiff's motion for preliminary injunction, for example, Armstrong offered into evidence the following, all of which were rejected by the Court as lacking appropriate foundation, unauthenticated, and/or irrelevant pursuant to Evidence Code §352:

☼ An unauthenticated document, dated 1982, entitled "Jerry Armstrong Project," which Armstrong offered to show "whether or not Scientology (sic) comes to this courtroom with unclean hands;" [Ex. B, Transcript of Hearing, May 26, 1992, 40:24 - 41:2; 42:28 - 43:22]

☼ A declaration of anti-Church litigant Bent Corydon from a case in which neither Armstrong nor the Church was a party, offered to show that plaintiff "seeks to enforce . . . an obstruction of justice;" [Id., 43:23 - 44:11]

☼ An unpublished, uncitable opinion by the Ninth Circuit Court of Appeals in another unrelated case, which made no reference to Armstrong, offered as "relevant to show an effort made by the Scientology organization (sic) to suppress individuals;" [Id., 44:14 - 46:20]

☼ A declaration of Armstrong which contained numerous opinions and statements made without any showing of personal knowledge, all of which were stricken; [E.g., Id. 55:1 - 57:9; 72:18 - 19; 73:20 - 74:2; 75:11 - 75:17]

※ A 280-page "stipulation of evidence" in a criminal case from 1979, which did not involve plaintiff, and which Armstrong falsely asserted was "illustrative of Scientology's (sic) activities;" and [Id., 78:5 - 81:24]

※ More than 71 pages of irrelevant, hearsay material from books, newspapers and magazine articles, none of which dealt with Armstrong, all of it negative concerning the Scientology religion, and all of it significantly pre-dating this litigation, offered ostensibly to show that plaintiff "is a valid and extant subject of intense public controversy;" [Id. 81:26 - 84:23][3]

Only evidence which is relevant is admissible at trial. Cal. Evid. Code § 351. Relevant evidence includes evidence "having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." Id. § 210. In his treatise on Evidence, Mr. Witkin explains that the term "disputed" has been substituted for the word "material" in the Evidence Code, and that its use in this definition of relevant evidence "covers [the] correct concept of materiality." 1 Witkin, Evidence, § 286, at 256 (3rd Ed. 1986). This correct concept of materiality is that it "depends on the issues in the case; evidence which does not relate to a matter in issue is immaterial." Id. at 255 (emphasis in original; citations omitted.)

---

[3] Many more examples abound; Armstrong's evidentiary offering was over 1 1/2 feet high for this single hearing, and most of the offering was rejected by the Court. The Court initially issued an OSC to the attorneys for both sides as to why no resolution concerning the evidence had been reached prior to the hearing, but dissolved the OSC without hearing after it became apparent that most of plaintiff's objections were valid, but that Armstrong contested every one of them. [Id., 66 - 68; Ex. C., Transcript of Hearing, May 27, 1992, 3 - 4.]

Armstrong will likely attempt to justify the "relevancy" of the alleged conduct of plaintiff and others by asserting that such conduct somehow "justifies" his own deliberate violations of the Court's Order. However, no assertion of misconduct by another makes Armstrong's contempt permissible. And no actions undertaken by anyone prior to the issuance of the May 28, 1992 Order, or taken with regard to someone other than Armstrong, could possibly act to excuse Armstrong's knowing and wilful violation of a lawful Court order. The only issue before this Court is whether Armstrong violated the May 28 order and, if so, what the sanctions should be.

Nonetheless, the Church reasonably fears that Armstrong will attempt to cloud the issues before this Court with the implication that plaintiff is somehow outside the protection of the law, and an entity against whom he may act with impunity despite his contractual and judicially ordered obligations. This is contrary to the law. "A person is not placed forever entirely outside the protection of the law in a particular transaction, because, forsooth, some time in the distant past he was guilty of an improper act." Nealis v. Carlson (1950) 98 Cal.App.2d 65, 69, 219 P.2d 56, 59. Past actions or allegations, supposedly attributable to plaintiff, have no bearing on the narrow question of whether or not Armstrong violated the Order in contempt of this Court.

Moreover, it is evident that the types of subject matter which plaintiff expects Armstrong to bring into this hearing are neither "material" nor "disputed" in the sense used in the statute. They do not relate to any disputed matter actually before the Court. Under the applicable relevancy standard, they are plainly irrelevant and must be excluded from the hearing of Armstrong's contempt.

## III.

## EVEN ASSUMING ARGUENDO THAT EVIDENCE OF ALLEGED PAST ACTS COULD BE MARGINALLY RELEVANT TO ARMSTRONG'S CASE, THAT EVIDENCE MUST STILL BE EXCLUDED PURSUANT TO EVIDENCE CODE SECTION 352

Evidence Code Section 352 provides that:

> The court in its discretion may exclude evidence if its probative value is substantially outweighed by the probability that its admission will (a) necessitate undue consumption of time or (b) create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury.

This section requires the trial court "to strike a careful balance between the probative value of the evidence and the danger of prejudice, confusion and undue time consumption." People v. Babbitt (1988) 45 Cal.3d 660, 668, 248 Cal.Rptr. 69, 83, cert. den. (1989) 488 U.S. 1034, 109 S.Ct. 849. Evidence of no or marginal relevance which has an "obvious potential for embarrassing or unfairly discrediting" a witness or party should be excluded. People v. Phillips (1986) 41 Cal.3d 29, 49-50, 222 Cal.Rptr. 127, 138-139. Cumulative or time-consuming evidence must also be weighed by the trial court, and excluded if its probative value is slight. Aguayo v. Crompton & Knowles Corp. (1986) 183 Cal.App.3d 1032, 1037, 228 Cal.Rptr. 768, 772.

Armstrong's anticipated "evidence" runs afoul of both prongs of this test for exclusion: (1) if such evidence is permitted here, it would effectively double or triple the estimated time for trial of this matter; and (2) it would create substantial danger of undue prejudice and confusion. If Armstrong, his counsel or their witnesses are permitted to comment or to testify concerning alleged actions of persons supposedly related to plaintiff which have nothing to do with Armstrong, and which predate the May 28 Order, the scope of this hearing will be utterly out of control.

In Contemporary Mission, Inc. v. Bonded Mailings (2d Cir. 1982) 671 F.2d 81, 83, a minority religious corporation sought damages for breach of contract. The defendant sought to interject a great deal of extraneous matter into the proceedings in an effort to show that the plaintiffs were not a bona fide religious organization. The trial court refused to admit the evidence and the Court of Appeals affirmed, stating,

> The case before the trial court was, and remains, a contract dispute between [Contemporary Missions, Inc.] and Bonded [Mailings]. Bonded argues, however, that the trial court erred in excluding evidence which would have opened the door to an examination of whether CMI was a bona fide religious organization and a relitigation of an independent suit between CMI and a party not involved in the immediate controversy. We find that the district judge properly excluded this

> potentially extensive, confusing and prejudicial evidence.
>
> * * *
>
> Similarly, Bonded's claim that the trial court erred in excluding extensive cross-examination of a CMI Vice President, Reverend John T. O'Reilly, on the genuineness of his and other members' affiliation with the Roman Catholic Church, is without merit. We cannot say that the trial court erred in denying extensive questioning on this collateral, potentially confusing and prejudicial issue which would perforce have raised a "religious problem" as observed by Judge Costantino. The trial court's ruling -- which kept complicated issues of religious affiliation out of a relatively simple contract damages case -- was proper. Clearly a contract dispute is not an appropriate setting for raising issues of uncertain constitutional dimension, particularly where the court must reach out to meet gossamer issues.

Id. at 83-84 (emphasis supplied).

Just as the CMI court refused to "reach out to meet gossamer issues," so should this Court refuse to permit defendants to interject testimony about alleged actions which predate the Court's order, concern persons other than Armstrong, and have nothing to do with whether or not Armstrong acted in contempt of a lawful order. Such testimony is "collateral, potentially confusing, and prejudicial," id., and should be excluded.

///

## IV. CONCLUSION

The sole question for determination in this matter is whether Armstrong deliberately and repeatedly violated the preliminary injunction Order entered against him on May 28, 1993. The hearing on the Order to Show Cause should be neatly contained to the issues relevant to that question; all collateral matters should be kept out. Evidence concerning alleged actions supposedly attributable to plaintiff which predate the May 28 Order, and/or do not concern Armstrong should, under Evidence Code §§ 351 and 352 be kept out of this case, so that the goal of an efficiently conducted and fair hearing is achieved.

Dated: February 1, 1993

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

BOWLES & MOXON

By: Laurie J. Bartilson
Laurie J. Bartilson

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

H:\ARMSTRONG\LIMINE.BAD

Exhibit A

DEPT. 88

**SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES**

Date: May 28, 1992
Honorable **Ronald M. Sohigian,** Judge
1

**M. Cervantes, Deputy Clerk**
**None** (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

vs.

Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

**NATURE OF PROCEEDINGS:** RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

In this matter heretofore taken under submission on May 27, 1992, the court now makes the following ruling.

1 Plaintiff's legal remedies are inadequate insofar as the scope of relief ordered below is concerned, but not otherwise. CCP 526(4) and (5).

2 The threatened acts which are restrained by the order referred to below, but only those threatened acts, would do irreparable harm to plaintiff which could not be compensated by monetary damages. CCP 526(2).

3 On the basis of the instant record, there is a reasonable probability that plaintiff will prevail after trial of this case in the respects restrained by this order. CCP 526(1); cf., San Francisco Newspaper Printing Co., Inc. vs. Superior Court (Miller) (1985) 170 Cal. App. 3d 438.

4 Plaintiff is likely to suffer greater injury from denial of the preliminary injunction the terms of which are set out below than the injury which defendant is likely to suffer if it is granted. See Robbins vs. Superior Court (County of Sacramento) (1985) 38 Cal. 3d 199, 206.

5 The granting of a preliminary injunction in the terms set out below will preserve the status quo pending trial.

DEPT. 88

**SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES**

Date: May 28, 1992
Honorable **Ronald M. Sohigian,** Judge
1a

**M. Cervantes, Deputy Clerk**
**None** (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International
vs.
Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

**NATURE OF PROCEEDINGS:** RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

6 Application for preliminary injunction is granted in part, in the following respects only.

Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of court from doing directly or indirectly any of the following:

Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986 regarding such claim or regarding pressing, arbitrating, or litigating it.

Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.

The court does not intend by the foregoing to prohibit defendant Armstrong from: (a) being reasonably available for the service of subpoenas on him; (b) accepting service of subpoenas on him without physical resistance, obstructive tactics, or flight; (c) testifying fully and fairly in response to properly put questions either in deposition, at trial, or in other legal or arbitration proceedings; (d) properly reporting or disclosing to authorities criminal conduct of the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986; or (e) engaging in gainful employment rendering clerical or paralegal services not contrary to the terms and conditions of this order.

DEPT. 88

**SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES**

Date: May 28, 1992
Honorable **Ronald M. Sohigian,** Judge
1b

**M. Cervantes, Deputy Clerk**
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

vs.

Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

**NATURE OF PROCEEDINGS:** RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

The application for preliminary injunction is otherwise denied.

7 The restraints referred to in sec. 6, above, will become effective upon plaintiff's posting an undertaking in the sum of $70,000 pursuant to CCP 529(a) by 12:00 noon on June 5, 1992.

8 The restraints referred to in sec. 6, above, properly balance and accommodate the policies inherent in: (a) the protectable interests of the parties to this suit; (b) the protectable interests of the public at large; (c) the goal of attaining full and impartial justice through legitimate and properly informed civil and criminal judicial proceedings and arbitrations; (d) the gravity of interest involved in what the record demonstrates defendant might communicate in derogation of the contractual language; and (e) the reasonable interpretation of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986. The fair interpretation of all the cases cited by the parties indicates that this is the correct decisional process. The law appropriately favors settlement agreements. Obviously, one limitation on freedom of contract is "public policy"; in determining what the scope of the public policy limitation on the parties' rights to enforcement of their agreement in the specific factual context of this case, the court has weighed the factors referred to in the first sentence of this section. Litigants have a substantial range of contractual freedom, even to the extent of agreeing not to assert or exercise rights which they might otherwise have. The instant record shows that plaintiff was substantially compensated as an aspect of the agreement, and does not persuasively support defendant's claim of duress or that the issues involved in this preliminary injunction proceeding were precluded by any prior decision.

DEPT. 88

**SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES**

| | |
|---|---|
| Date: May 28, 1992<br>Honorable **Ronald M. Sohigian**, Judge<br>1c | **M. Cervantes, Deputy Clerk**<br>**None** (E.R.M.) |

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

vs.

Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

**NATURE OF PROCEEDINGS:** RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

9 The court does not dispositively decide the underlying merits of the case except for this preliminary determination. CCP 526(1); Baypoint Mortgage Corp. vs. Crest Premium Real Estate etc. Trust (1985) 168 Cal. App. 3d 818, 823.

10 Plaintiff is ordered give written notice by mail by June 5, 1992, including in that written notice a statement regarding whether plaintiff has or has not posted the undertaking referred to in sec. 7, above, and attaching to that written notice evidence showing that the undertaking has been posted if that is the fact.

DATED: May 28, 1992.

RONALD M. SOHIGIAN

RONALD M. SOHIGIAN
Judge of the Superior Court

A copy of this minute order is sent to counsel via United States mail this date.

Exhibit B

COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

COPY

CHURCH OF SCIENTOLOGY, INTERNATIONAL, etc.

Plaintiff,
vs.

GERALD ARMSTRONG, et al.,

Defendant.

Superior Court
Case No. BC 052-395

Los Angeles, California
May 26, 1992
10:05 a.m.

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

THE HONORABLE RONALD M. SOHIGIAN, PRESIDING
DEPARTMENT 88

# TRANSCRIPT ON APPEAL

COURT RECORDER:
J. W. CRUSE

TRANSCRIPTION BY:
PARRIS TRANSCRIPTS
P.O. Box 41754
Los Angeles, Ca 90041-9998
(213) 254-4157

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

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PROCEEDINGS BEGIN AT 10:05 A.M.

(The Court is called to order)

THE COURT: Let's to go Case BC52395, Church of Scientology versus Armstrong.

MR. WILSON: Good morning, Your Honor. Andrew Wilson, Wilson Reign and Campilongo, and Laurie Bartilson, Bowles & Moxon, on behalf of the moving party.

MR. MORANTZ: Good morning, Your Honor, Paul Morantz and Ford Greene for Defendant Armstrong.

THE COURT: Same attorneys are going to argue who made the oral presentations previously, right?

MR. WILSON: Yes.

MR. MORANTZ: That is correct.

THE COURT: All right. Go ahead with the submittal of evidence. What I'll do, in view of the way this case has been presented to me in the briefing, is the following: I will take a list of all the evidence that the plaintiff wants to put in; take a list of all the evidence that the defendant wants to put in and we'll go back and make a determination about what matters will be received and what objections will be sustained and overruled. So let's just have the proponent's listing first.

MR. WILSON: Thank you, Your Honor. The evidence is, No. 1, the agreement which Mr. Armstrong and plaintiff entered into on -- in December of 1986, which appears as Exhibit A to the Complaint. I am also going to give you, Your Honor -- there are -- it has been submitted in a number of places --

THE COURT: All right. All we need is just one.

MR. WILSON: Okay. I think I should, though, give it in other places because there's -- there -- maybe there's an objection, I believe, to the fact that it's an exhibit to the Complaint. It's also Exhibit D to the Declaration of Mr. Armstrong, dated March 16, 1992; it's Exhibit D to the Supplemental Opposition Exhibits submitted by Mr. Morantz; and it's Exhibit A to the Declaration of Mr. Graham Berry, dated May 7, 1992.

Second, the Declaration of Lawrence E. Heller is offered. This relates to the circumstance --

THE COURT: Date of filing?

MR. WILSON: I believe that is -- if you'll give me just a second, Your Honor.

THE COURT: Sure. Or date of declaration, if that's all you've got. Whatever it is.

MR. WILSON: I don't have it in my note here; I made a list of all the evidence, and I neglected to put that in. If you want to leave that blank for a second, there's another declaration of Mr. Heller that I want to offer, as well.

THE COURT: Uh-huh.

MR. WILSON: That is the Declaration of Mr. Heller dated March 2nd, 1992, and Exhibits A and B thereto, which are a videotape of the signing of the agreement and a transcript of the videotape of the signing of the agreement.

If I may just continue --

THE COURT: Go ahead.

MR. WILSON: I will do that. Second, the

establishment of the payment of the settlement amount to Mr. Armstrong, that is in the verified Complaint which I've already offered as well --

THE COURT: You did not offer the verified Complaint.

MR. WILSON: I'm sorry. I've listed it. You're right. I stand corrected.

Mr. Armstrong's supplemental evidence which is Exhibit C, which is a three-page document which begins, "We the undersigned agree and acknowledge." Next --

THE COURT: What is it and where is it?

MR. WILSON: Would you give me a minute, Your Honor? I had this organized in my briefcase and in getting it out I--

THE COURT: Sit down, sir.

MR. WILSON: Your Honor?

THE COURT: No. There's somebody behind you standing up. I don't want anybody in the audience section of the courtroom standing up. The attorneys can either stand up or sit down, depending on what's most comfortable for them.

MR. WILSON: This is Exhibit C --

THE COURT: Yes.

MR. WILSON: -- to the exhibits to supplementary opposition to motion for preliminary injunction. Date, 5-14-90 --

THE COURT: Which volume? One or two?

MR. WILSON: It's volume -- it doesn't have a volume index on it, Your Honor. I think it's the only one that was submitted with both Mr. Morantz and Mr. Greene's names on the caption.

THE COURT: Oh. It's their side. Okay.

MR. WILSON: It's their side.

THE COURT: Go ahead.

MR. WILSON: Okay.

THE COURT: That's your fourth proffer.

MR. WILSON: Right.

THE COURT: What's the fifth?

MR. WILSON: Next, Exhibit 1-E to the Request, our Request for Judicial Notice, filed in support of our Motion for Preliminary Injunction, which is a transcript of proceedings in Religious Technology Center vs. Yanny.

Next --

MR. GREENE: The date of the proceedings, Counsel?

MR. WILSON: I don't have it on my index here.

THE COURT: Go ahead.

MR. WILSON: I will give it to you in a minute.

(Pause)

MR. WILSON: While Ms. Bartilson is looking for that date, I have the date of the earlier declaration of Mr. Heller that we were going to supply.

THE COURT: Sure.

MR. WILSON: And it was submitted in support of the Amended Motion, and the date of filing is May 7, '92, and the date of the Declaration is January -- it's left blank on the Declaration. Anyway, the date of the Declaration's signing page is blank day of January, 1992.

THE COURT: Okay.

MR. WILSON: If I might, I'll give you the next one and we can supply that date.

THE COURT: That's fine.

MR. WILSON: The next one is a Declaration of Gerald Armstrong which was submitted in that case, the RTC versus Yanny case, dated July 19, 1991, and that is Exhibit 1-F to the Request for Judicial Notice which I earlier referred to.

Next is really the -- we have two paragraphs that we're referring to there -- and so the next one is another paragraph of that declaration which I just referred to.

THE COURT: Your current proffer is of the declaration in its entirety?

MR. WILSON: Right. In its entirety.

THE COURT: Go ahead.

MR. WILSON: I'm sorry, I have my notes organized here as to points. The next are declarations prepared and executed by Mr. Armstrong which were filed by Mr. Yanny in opposing a preliminary injunction motion in that case, and those are Exhibits 1-J and 1-K to the request for judicial notice which I've earlier referred to.

To go back to the date of the transcript which Mr. Greene requested, the date of that transcript is August 6, 1991. The date of the hearing was August 6, 1991. That's of the transcript of Joseph Yanny which we earlier proffered.

Next is a letter by Mr. Armstrong to Mr. Eric Lieberman dated August 21, 1991, which is Exhibit 2-B to the evidence submitted in support of the preliminary injunction motion. This also appears as exhibit -- an exhibit to Mr.

Yanny's counsel's evidence which he submitted in support of his amicus brief, and I will give you that reference.

(Pause)

MR. WILSON: And that is Exhibit M to Mr. Berry's declaration -- I'll give you the title of the pleading: Declaration of Graham E. Berry, to all evidence in support of amended amicus curiae brief in opposition to plaintiff's order to show cause re preliminary injunction and supporting exhibits.

THE COURT: Could you wait for just one second.

(Pause)

THE COURT: Please go ahead. This will be your ninth item.

MR. WILSON: Thank you, Your Honor. Next, the Declaration of Gerald Armstrong which is Exhibit 1-L to the evidence in support of the preliminary injunction motion. Paragraph 18 of that declaration.

THE COURT: What was the date of the Armstrong declaration that you're referring to now?

MR. WILSON: The date of the Armstrong declaration is --- I'll give you that in a second, Your Honor.

THE COURT: Okay. Go ahead with whatever else you wanted to do.

MR. WILSON: Okay. The next is a Declaration of Ford Greene, which is Exhibit M to the evidence in support of the preliminary injunction motion.

THE COURT: The date of that declaration?

MR. WILSON: I'll give you that date in just a second, Your Honor.

THE COURT: Okay.

MR. WILSON: The date of the Armstrong declaration is September 3 of '91. And the date of Mr. Greene's declaration is September 4, 1991.

Next is the Declaration of Ms. Laurie Bartilson, which is Exhibit 5 to the evidence in support of the motion for preliminary injunction. That is dated January 29 of 1992.

Next is, and I think this is the last one, the deposition -- pages from the deposition testimony of Mr. Armstrong, which are -- which appear as Exhibit E to the Declaration of Mr. William Drescher -- and I'm getting the date of that declaration for you now.

(Pause)

MR. WILSON: The date of the tran-- of the deposition is March 17 of '92. And the date of the declaration -- is May 19, 1992, and it appears -- I don't know whether I said this already -- it appears as Exhibit -- it appears in the exhibits in support of plaintiff's reply to defendant's opposition to motion for preliminary injunction.

And, Your Honor, the procedure that I've followed is that there may be certain rebuttal evidence that we would offer which would depend on whether our evidentiary objections to certain of the material submitted by the defendants are sustained or overruled.

THE COURT: Just a second. Let me get you to hang on for just a second.

(Pause)

MR. WILSON: That concludes the evidence --

THE COURT: Your -- the fourth item in your proffer, this thing, the three-page document: do you want to describe that in more --

MR. WILSON: Yes. This is a document which appears in Armstrong supplemental evidence, Exhibit C.

(Pause)

MR. WILSON: And I have to say, Your Honor, I'm uncertain as to whether it has been properly labeled, because there's no tabs, and it's a handwritten "C," but there's a -- there's an exhibit stamp that appears to have been crossed out. Anyway, I will -- let me describe it so that the record is clear.

It is a three-page document. It begins with the language,

READING:

> "We, the undersigned, agree and acknowledge that, one, we have read the foregoing settlement agreement."

MR. WILSON: And those are the first two lines of the page. I'm not going to read the rest of the page. And then the second page continues and ends the text, and the last line and a half of text on that page says, quote, "is accurately and properly reflected in the allocations set forth herein."

There then follows a page and a half of signatures. The first signature is of a person by the name of Nancy Gincalci, G-I-N-C-A-L-C-I, and the last signature -- I'm sorry, Your Honor, I said it was three pages and -- I guess -- that's correct, it is.

THE COURT: Okay. Last signature is who?

MR. WILSON: The last signature on the -- on the third page is illegible, but the last typewritten signature line, which is unsigned, says Robert Kilbourne, K-I-L-B-O-U-R-N-E. And Mr. Armstrong's signature appears approximately halfway through the third page, and dated 12-6-86. Is that an adequate description for your purposes?

THE COURT: I think it is, yes.

MR. WILSON: Thank you. Could we also --

THE COURT: All right. Go ahead with your submittals, defendants.

MR. GREENE: Before that, Your Honor, I just would like to get a couple of more declaration dates there where it's --

THE COURT: I don't find that's necessary. I think he has adequately described what he's talking about. Go right ahead with your --

MR. GREENE: May I have just a couple of moments to finish getting myself set up?

THE COURT: Yes.

(Pause)

MR. GREENE: Okay.

THE COURT: Go ahead.

MR. GREENE: Good morning. On behalf of Mr. Armstrong --

THE COURT: Just a second.

MR. GREENE: First --

THE COURT: Just a second.

MR. GREENE: Oh. Sorry.

(Pause)

THE COURT: Incidentally, during that submittal of evidence, counsel for amicus curiae Yanny showed up; he's seated at counsel table. Please go ahead, Mr. Greene.

MR. GREENE: Thank you. Number one --

(Interruption)

THE COURT: Go ahead.

MR. GREENE: First would be Exhibit A in support of Mr. Yanny's request for judicial notice of documents that is dated 5-11-92. Second -- and that Exhibit A is a document entitled "Gerry Armstrong Project" dated 17 February '82.

Next --

THE COURT: Nineteen what?

MR. GREENE: 1982.

THE COURT: Yes, sir. Go ahead.

MR. GREENE: Next, as Exhibit C in support of the same request for judicial notice is a document entitled "Plaintiff's Opposition to Defendant's Motion for Summary Judgment" in an action entitled Corydon, C-O-R-Y-D-O-N, versus Flynn, U.S. District Court, Central District of California, Case No. 90-3838.

Next is Exhibit D to the same request for judicial notice, which is an opinion by the 9th Circuit in Case No. 90-55288, the appeal of Aznaran versus Church of Scientology.

Next is Exhibit E -- and the date on the opinion is

July 11, '91. Next in order is Exhibit E to the same request for judicial notice in the Aznaran case in the trial court, Central District of California, U.S. District Court, No. CV-88-1786.

THE COURT: What is it?

MR. GREENE: Notice of motion and motion for preliminary injunction. Dated November 9, 1989.

THE COURT: Go ahead.

MR. GREENE: Next in order will be a series of exhibits that were submitted in support of the declaration of Graham E. Berry to all evidence in support of amended amicus curiae brief in opposition to plaintiff's order to show cause re preliminary injunction, and supporting exhibits in this case. Therein is Exhibit B --

MR. WILSON: Excuse me one second. Is that the declaration that is dated --

MR. GREENE: Oh, excuse me. Let me give you the -- May -- that's the declaration May 7, 1992.

MR. WILSON: Thank you.

MR. GREENE: Exhibit B thereto is a six-page document that's entitled "Settlement Agreement."

C, which is our next in order, is an order dismissing action with prejudice --

THE COURT: Is that attached to the Berry document?

MR. GREENE: Yes, sir, this next series are --

THE COURT: All right. Go ahead.

MR. GREENE: -- encompassed by the Berry declaration. Order dismissing action with prejudice, filed in this Superior Court No. C420153. Filed December 11, '86.

Next -- and for the sake of brevity, I'll refer to that case as Armstrong I, the prior case involving these parties in this court.

THE COURT: 421053 is the case number?

MR. GREENE: Yes, sir --

THE COURT: Go ahead.

MR. GREENE: -- and for the sake of brevity, that will be Armstrong I.

Then in Armstrong I, a minute order of 12-12, 1986.

Next in Armstrong I, a transcript of proceedings of December 11, 1986.

Next in Armstrong I, a memorandum of intended decision, with a file stamp of June 22, 1984, and Judge Breckenridge's signature indicating that it was on June 20th, 1984, that he signed it. And that is Exhibit G to the Berry submission.

Next is Exhibit H, which is the Complaint in the Aznaran case in the Central District, filed April 1, 1988.

Next is "I" to the Berry declaration which is the Complaint in RTC versus Yanny, filed July 18, 1991, in this court.

Next is "J" to the Berry declaration, which is the First Amended Answer to Plaintiff's Verified Complaint, and that is in the RTC versus Yanny case.

Then, as Exhibit K to the Berry declaration, is a Reporter's Transcript of Proceedings in Armstrong I, dated December 23rd, 1991.

Judge, in going through these things, I'm not enumerating the other places in the record where they appear; there are -- some of these documents appear also in support of other motions that have been brought in other papers, but I'm submitting them here for our purposes before you today.

Exhibit L to the Berry declaration, which is a letter from Graham Berry dated March 13, 1992, to Laurie J. Bartilson.

THE COURT: Date of the letter?

MR. GREENE: March 13, 1992.

THE COURT: Go ahead.

MR. GREENE: Then, as Exhibit M to the Berry declaration, is a letter from Gerald Armstrong to Eric Lieberman, dated 8-21-91.

THE COURT: Dated?

MR. GREENE: August 21st, 1991.

THE COURT: And the writer is Berry?

MR. GREENE: No, sir; the writer is Armstrong, and the recipient is Lieberman, L-I-E-B-E-R-M-A-N.

THE COURT: Is that the same as the --

MR. GREENE: I think that it is. That counsel mentioned when he was enumerating his listing. I believe it's the same.

THE COURT: Yes. That's the same as the eighth item that counsel proffered -- just a second -- letter from Armstrong dated August 21, 1991, to Lieberman, Exhibit 2-B in evidence in support of preliminary injunction --

MR. GREENE: I haven't looked --

THE COURT: -- and it's Berry declaration Exhibit M; is it not?

MR. GREENE: I believe it is.

THE COURT: All right. So there's in essence a stipulation that that may be received.

MR. GREENE: Right.

THE COURT: All right. Go ahead.

MR. GREENE: Then back to the Berry declaration, Exhibit N thereto, Reporter's Transcript of Proceedings in this case when it was still in Marin County, wherein it had the case number 152229, and the proceedings were held on March 3rd, 1992.

Exhibit O is a document in RTC versus Yanny, entitled "Defendant's Meet and Confer Statement" regarding defendant's noticed depositions of John J. Quinn, William T. Drescher and Laurie J. Bartilson, and the custodian of records of their respective law firms. That is dated February 20th, 1992.

Next is Item P, which is a declaration of Gerald Armstrong in opposition to Scientology's motion for preliminary injunction, in this case when it still had the Marin County caption. And that declaration is dated March 16, '92.

Then, as Item Q, in RTC versus Yanny, deposition excerpts from the March 17, 1992 deposition of Gerald Armstrong.

Then next, as Exhibit R to the Berry declaration, in the RTC versus Yanny case, Armstrong deposition excerpts of

April 7th, 1992.

THE COURT: The deponent was whom?

MR. GREENE: I'm sorry, I didn't hear you.

THE COURT: Who was the deponent?

MR. GREENE: Gerald Armstrong again.

THE COURT: Go ahead.

MR. GREENE: Then, as Exhibit S to the Berry declaration, a document entitled "On Control and Lying" --

THE COURT: On control and what?

MR. GREENE: Lying.

And then as Exhibit T to the Berry declaration, a document entitled "Suppressive Person Declare Gerry Armstrong" dated 18 February 1982.

Next is what's been designated -- may I have a second, Your Honor. I don't want to repeat myself.

Next is a document entitled Exhibit DD to the Declaration of Graham E. Berry, in support of amicus curiae brief of Joseph A. Yanny in opposition to plaintiff's order to show cause re preliminary injunction, with the Marin County caption on it, and Exhibit DD --

THE COURT: Date of the Berry declaration that you're referring to is what? Is it the same one you've been referring to so far, or a different one?

MR. GREENE: No, it isn't --

THE COURT: The date of it is what?

MR. GREENE: Okay, I've got it. If I may have just a second.

(Pause)

MR. GREENE: March 16th, 1992. And --

THE COURT: What is that Exhibit DD?

MR. GREENE: Okay, that's what I wanted. Just a second, Your Honor. It is a document filed in Armstrong I on October 3rd, 1991, that is entitled "Notice of Motion and Motion to Enforce Settlement Agreement colon -- or semicolon; For Liquidated Damages and to Enjoin Future Violations."

Then next is Exhibit CC to the March 16th, 1992 Declaration of Graham Berry, which is a document entitled "Stipulation of Evidence" in the case United States versus Mary Sue Hubbard, U.S. District Court, District of Colombia, Criminal No. 78-401.

There are a series of authorities that are out-of-state authorities, Your Honor; I don't know -- I suppose I'll excerpt those for now and then address them later; we would be relying on those.

THE COURT: Yes, they're not part of the factual record, no. Go ahead.

MR. GREENE: Next is the Declaration of Ford Greene, on the subject of Wakefield versus Church of Scientology of California (11th Circuit 1991), submitted in opposition to order to show cause re preliminary injunction, filed March 19, 1992, in this case, under the Marin County caption, and executed the same date.

THE COURT: You said the date of execution and filing was what?

MR. GREENE: March 19, 1992.

THE COURT: Okay, Mr. Greene. Anything else?

MR. GREENE: Yes, sir.

(Pause)

MR. GREENE: Further submissions pursuant to the Declaration of Graham Berry executed March 16th, 1992, include excerpts from, quote, "A Piece of Blue Sky," close quote, by John Atack (phonetic), Chapter 5, which is Exhibit F to the 3-16-92 Berry declaration.

Exhibit G to the 3 -- if I said 19, I misspoke; I meant 16. Exhibit G to the 3-16 Berry declaration, further excerpts, Chapter 2 from "A Piece of Blue Sky."

Exhibit I to the Berry 3-16-92 declaration, an article entitled "Scientologies, a War Against Judges" from the December 1980 issue of "American Lawyer."

Exhibit J to the 3-16-92 Berry declaration, which is a story from September 20, 1988, the "L.A. Times," entitled "Misconduct By Judge Alleged in Scientology Suit."

Next is Exhibit K to the 3-16-92 Berry declaration, Chapter 1 of "A Piece of Blue Sky."

Exhibit V to the 3-16-92 Berry declaration, which is a five-page document entitled "Project Quaker."

Exhibit W to the 3-16 Berry declaration is a document entitled "Penalties for Lower Conditions" dated 18 October 1967.

Next is Exhibit X to the 3-26-92 Berry declaration, a document dated 7 October 1971, entitled "Re Books and Enpheta," E-N-P-H-E-T-A, written about Scientology by S. Pease.

Next is Exhibit Y to the 3-16-92 Berry declaration, which is a letter to Michael dated 20 May 1975.

"Z" to the Berry declaration of 3-16-92, a document in the U.S.A. versus --

THE COURT: Let me have -- you had Exhibit Y, a letter to Michael, and then did you have another --

MR. GREENE: Yes.

THE COURT: -- you had another letter, and I think I did not note that properly. Let me hear what your submittal is on the thing that followed next after Exhibit Y to the declaration.

MR. GREENE: That's what we're on now. Exhibit Y was the letter to Michael; the exhibit preceding that was the exhibit entitled "Re Books and Enpheta."

THE COURT: Okay. Go ahead. Go -- go -- give --

MR. GREENE: Pick up where I was?

THE COURT: Give me whatever you are -- you're going to give after Exhibit Y, please.

MR. GREENE: Yes, sir. Exhibit Z, a document entitled "Sentencing Memorandum of the United States of America," in the case captioned U.S.A. versus Jane Kember, K-E-M-B-E-R, U.S. District Court, District of Colombia, Criminal No. 78-401.

MS. BARTILSON: What's the date on that?

MR. WILSON: Excuse me, do you have a date on that?

MR. GREENE: Sure. The 20th of October, 1978.

And Exhibit AA to the 3-16-92 Berry declaration --

THE COURT: Just one second, please. After Exhibit Z, the next one was -- now you're going back to Exhibit AA?

MR. GREENE: Yes, sir.

THE COURT: Please identify that document.

MR. GREENE: That is a document dated 17 October '71, entitled "I.N.T.," new word, "Hatting: The Strike" --

THE COURT: How do you spell the word that comes after I.N.T.?

MR. GREENE: Double-T, -I-N-G. H-A-T-T-I-N-G.

THE COURT: I.N.T., new word, Hatting, H-A-T-T-I-N-G, right?

MR. GREENE: Yes, sir.

THE COURT: Okay.

MR. GREENE: Then Exhibit BB to the 3-16 Berry declaration, which is a document entitled "Declaration of Joseph A. Yanny," executed July 13, 1988.

Next is identified in the record under the caption in the -- of this case when it was in Marin County, entitled "Declarations of Gerald Armstrong," filed in support of amicus curiae brief of Joseph A. Yanny in opposition to plaintiff's order to show cause re preliminary injunction. The first Armstrong declaration is executed on March 19th, 1986.

THE COURT: The date was March 19, 1986, correct?

MR. GREENE: That is correct.

THE COURT: Go ahead.

MR. GREENE: The next declaration of Gerald Armstrong is dated November 1, 1986. Next -- and that is -- I apologize; that's identified as Exhibit B to the series of Armstrong declarations filed in support of the amicus.

Then submitted as Exhibit C is the Armstrong declaration dated December 18, 1983.

Then the Armstrong declaration designated Exhibit D is that executed on November 7, 1986.

The next declaration is that designated as "E," in support of amicus, which has a date of November 18, 1986, on the front.

Then, as Exhibit F --

THE COURT: What is that, Exhibit E?

MR. GREENE: Exhibit E is an exhibit -- is a witness exhibit of -- unfortunately, the --

THE COURT: Just describe it.

MR. GREENE: The numbers that are on it says 24-90, and the month, the hole punch went through. And it's a plaintiff's exhibit -- that's the best I can identify it, and it's 14 pages long.

THE COURT: Go ahead.

MR. GREENE: Next is Armstrong declaration designated Exhibit F in support of amici dated March 15, 1990.

Next is Exhibit G to -- of Armstrong exhibits in support of amici, and that is Declaration by Gerald Armstrong dated September 3, 1991.

Then next is designated as H, Declaration of Gerald Armstrong dated May 7, 1985.

Next are declarations -- a document entitled "Declarations of Michael J. Flynn, Esq.," filed in support of amicus curiae brief of Joseph A. Yanny in opposition to plaintiff's order to show cause re preliminary injunction. And that's with the Marin County caption.

Exhibit A is a document entitled Affidavit of Michael J. Flynn, filed in Armstrong I. There is no date on that. Actually -- hold on. Excuse me, Your Honor. I may have misspoken.

I did misspeak. That's dated September 21st, 1983.

Then Exhibit B of the Flynn declarations in support of amicus curiae is a document entitled "Declaration of Michael J. Flynn" dated November 7, 1984.

And then Exhibit C is the -- is a document entitled "Declaration of Michael J. Flynn" of July 19th, '85.

Next are items that were submitted under a paper in this case, with the Marin County caption, filed March 16, 1992, and the document's entitled "Evidence in Support of Defendant's Opposition to Scientology's Motion for Preliminary Injunction." And that is a Volume I, and Volume I is comprised of items concerning which -- that are the subject of a request for judicial notice.

Next in order --

THE COURT: What's the date of filing?

MR. GREENE: The date of filing was March 16th, 1992.

THE COURT: How many more documents are you going to proffer?

MR. GREENE: There are about 30.

THE COURT: Thirty more documents?

MR. GREENE: Yes, sir.

THE COURT: We'll be in recess now. I order you all back here at 20 minutes after 11:00, ready to proceed. Be seated in your places at that time.

MR. GREENE: Yes, sir.

(The Court recessed at 11:05 a.m., until 11:20 a.m.)

(The Court is called to order.)

THE COURT: All right. Be seated. You can go right ahead, Counsel, from where you left off. The attorneys who were before the Court before the midmorning recess are before the Court again. We're ready to go.

MR. WILSON: Excuse me, Your Honor, just so that we're all clear: Are we on No. 47 now?

THE COURT: No; I have us on No. 50.

MR. WILSON: My co-counsel says 49; well, I guess we'll --

(Laughter)

MR. WILSON: -- just keep going, and I say "next."

THE COURT: Well, it depends on what you mean -- it depends about on what you mean by "on." We just finished with something called the evidence in support of defendant's opposition to Scientology's motion for preliminary injunction, filed March 16, 1992, and it was at that point that I asked how much more material there would be, and counsel gave me the answer, and I suppose technically speaking we haven't concluded that item, but that would be No. 49.

MR. WILSON: Then, we're all in the same place.

MR. GREENE: Okay. Under that item, next is what's identified as Roman numeral I-A, which is a document entitled "Declaration of Vickie J. Aznaran," A-Z-N-A-R-A-N, supporting opposition to motion to disqualify plaintiff's counsel. And that is dated August 9th, 1988, in the Aznaran case in the Central District.

Item Roman I-B is the Complaint in Armstrong I. That was filed on or about August 2nd, 1982.

Next is what's identified as Roman numeral I-D, which is a document in Armstrong I entitled "Application for an Order to Show Cause re Preliminary Injunction and Temporary Restraining Order," attached declarations and exhibits. Exhibit 1 thereto is an affidavit of Gerry Armstrong in the case entitled Van Schaick, V-A-N, new word, S-C-H-A-I-C-K, versus Church of Scientology, U.S. District Court for the District of Massachusetts No. 79-2491-G, executed July 22, 1982.

And Exhibit 2 to the TRO application in Armstrong I is a document entitled "Affidavit of Gerry Armstrong" filed in the case entitled Burden, B-U-R-D-E-N, versus Church of Scientology, U.S. District Court, Middle District of Florida, Tampa Division, Case No. 8501-CIV-T-X, dated June 25th, 1982.

Next is item Roman numeral I-E; it's identified as the Armstrong evidence submitted in Marin March 16, 1992, Cross-Complaint in Armstrong I.

So that the record's clear, I may have skipped something, Your Honor. There is in this submission a request for judicial notice, and I don't want to be submitting these items without having included what it is under which they are submitted, and that's designated as Roman numeral I in the evidence submitted on 3-16-92 in Marin.

I-E is the Cross-Complaint for damages in Armstrong

I, filed April 17, 1982.

Next is item Roman numeral 1-F, which is the Third Amended Cross-Complaint for damages in Armstrong I, filed July 1st, 1983.

THE COURT: What was the date of filing?

MR. GREENE: July 1st, 1983.

THE COURT: Please go ahead.

MR. GREENE: Next is identified as item Roman numeral I-H, which is the Notice of Entry of Judgment in Armstrong I, dated August 14, 1984.

Next is item --

MR. WILSON: Excuse me a second.

MR. GREENE: Yes.

MR. WILSON: Was that "H" Notice of Entry of Judgment filed August 10, '84?

MR. GREENE: That's what I -- that's what it says on the -- on the -- on the enumeration on the index.

THE COURT: Fine; let's move forward, then.

MR. WILSON: Thank you. I'm sorry.

THE COURT: I just want to tell you that to the extent that you occupy time in the document submittal, I'm naturally going to circumscribe the time that's devoted to your oral argument; I'll simply rule on the basis of the documents submitted to me. I don't believe I'm going to need to hear extensive oral argument. But go right ahead; I'm going to compress this thing up just a little bit.

MR. GREENE: Roman numeral I-i is the notice of appeal in Armstrong I, filed August 23, 1984.

Next is item Roman numeral I-K, which is the joint stipulation of dismissal in Armstrong I, filed December 11, 1986.

Next, identified as item Roman numeral I-L, a document entitled "Order Dismissing Action With Prejudice" in Armstrong I, filed December 11, 1986.

Next, item Roman numeral I-M, in Armstrong I, a document entitled "Stipulation for Return of Sealed Materials and Exhibits," filed December 11, 1986.

Next, Roman I-N, document entitled "Order for Return of Exhibits and Sealed Documents" in Armstrong I, filed December 11, '86.

Roman --

THE COURT: State the name of that document again.

MR. GREENE: Yes. That was "Order for Return of Exhibits and Sealed Documents."

Roman I-O, in Armstrong I, a document entitled "Stipulated Sealing Order," filed December 11, 1986. Just a moment, Your Honor; I'm sorry.

(Pause)

MR. GREENE: Next, Your Honor, is a minute order in Armstrong I from December 11, 1986, and that's identified as Roman I-P.

Roman I-Q is a one-page document entitled "Stipulation" dated December 10, 1986.

Next is Roman I-R, a document entitled "Indemnity Agreement." It's two pages long, signed by Earl Coolie and Lawrence Heller.

Next is I-S, in Armstrong I, 12-12-86 minute order.

Next is identified as Roman I-U, which is an appellate -- a non- -- unpublished appellate opinion in Armstrong I that was filed December 18, 1990.

Next, in Armstrong I, in the Court of Appeal, identified as item Roman I-V, is a denial for petition for rehearing dated January 15, 1987.

Next, identified as Roman I-W, in the California Supreme Court, an order denying review filed March 11th, 1987.

Next, as Roman I-X, in Armstrong I, a document entitled "Unopposed Motion to Withdraw Memorandum of Intended Decision," filed January 30, 1987.

Next, Roman I-Y, a minute order in Armstrong I, dated February 2nd, 1987.

Next, as I-Z, a notice of appeal in Armstrong I, signed February 9, 1987, and I believe file-stamped the same date.

Exhibit I-AA is a denial of review, filed in the California Supreme Court on October 17, 1991, regarding Armstrong I.

THE COURT: Is that October 17th or December 17th?

MR. GREENE: There were two appeals, and so this is October 17, 1991, and that is Exhibit I-AA.

THE COURT: I understand. Go right ahead.

MR. GREENE: I-BB, in the Court of Appeal in Armstrong I is a remittitur notice of December 5th, 1991.

Next is Roman I-CC, which is a document entitled "Notice of Motion and Motion of Defendant Author Services, Incorporated," to delay or prevent the taking of certain third-party depositions by plaintiff, memorandum of points and authorities, declarations of Lawrence E. Heller and Howard Schomer, S-C-H-O-M-E-R, in support thereof. And that's in the case captioned Corydun versus Church of Scientology, L.A. Superior Court No. C 694 401, dated October 1989 -- and I can't quite read -- I think October 31st.

Next is Roman numeral I-DD, a document entitled "Complaint for Damages and for Injunctive Relief," from, one, Fourth Amendment violations; two, First Amendment violations; three, due process violations under the Fifth Amendment; and fourth, equal protection violations under the Fifth Amendment, filed August 12, 1991, in the case Church of Scientology versus Xanthos, et al., X-A-N-T-H-O-S, U.S. District Court, Central District, No. 91-4301.

Next, identified as I-EE, is a document entitled "Supplemental Memorandum in Support of Defendant's Motion to Dismiss Complaint With Prejudice," declarations of Sam Brown--

THE COURT: Just a second. Supplemental memorandum in support of defendant's motion?

MR. GREENE: Yes, sir. To dismiss complaint with prejudice. Declarations of Sam Brown, Thorn Smith, Edward Austin, Lynn R. Farny, F-A-R-N-Y, and Laurie J. Bartilson, filed in Aznaran versus Scientology, on about August 28th, 1981. I'm sorry. I misspoke. August 26, 1991.

Next is Roman I-GG in Armstrong I, a document entitled "Defendant and Cross-Complainant's Opposition to Notice of Motion and Motion to Enforce Settlement Agreement for Liquidated Damages and to Enjoin Future Violations," signed by Toby, T-O-B-Y, Plevin, P-L-E-V-I-N, November 18, 1991. And that is in Armstrong I, if I didn't say so.

Roman I-HH, in Armstrong I, is a document entitled "Reply in Support of Motion to Enforce Settlement Agreement for Liquidated Damages and to Enjoin Future Violations," with a proof of service of November 22, 1991.

Roman numeral I-ii, in Armstrong I, a document entitled "Supplemental Opposition of Gerald Armstrong to Motion to Enforce Settlement Agreement," declaration of Toby L. Plevin, dated September 16, 1991.

Roman numeral I-JJ in Armstrong I is a document entitled "Supplemental Reply in Support of Motion to Enforce Settlement Agreement," declaration of Randall A. Spencer, dated December 19, 1991.

L --

THE COURT: Just a minute, please.

MR. GREENE: Yes, sir.

THE COURT: Please go ahead.

MR. GREENE: Roman numeral I-LL is Senate Bill No. 711, amended January 27, 1992 --

THE COURT: Let me have the Senate bill number.

MR. GREENE: 711. 711.

THE COURT: Date of amendment?

MR. GREENE: January 27, 1992.

Roman numeral I-MM is in the Aznaran case, a document entitled "Amended Declaration" --

THE COURT: Just a second. Go ahead.

MR. GREENE: "Amended Declaration of Vickie J. Aznaran in Opposition to Plaintiff's Motion for Sanctions," dated September 23rd, 1988.

Next, identified as Roman numeral II, pursuant to the evidence submitted in Marin on March 16, 1992, is a document entitled "Declaration of Gerald Armstrong in Opposition to Scientology's Motion for Preliminary Injunction."

Next is Roman numeral II-A, which is a document entitled "Attacks on Scientology," dated 25 February 1966.

Next is Roman numeral II-B, which is a document entitled "Level O Check Sheet," by L. Ron Hubbard.

Document II-C was also previously referenced as the penalties for lower conditions, dated 18 October 1967.

Document II-E is a four-page document that starts with the phrase, "after an initial 10 percent of the income has been deducted for research." And the page numbers on that document are 11, 12, 18 and 29.

Document Roman II-F is entitled "Affidavit of Kenneth David Long," sworn 5th October 1987, in a case captioned in the High Court of Justice, Chancery Division, 1987 C No. 6140, Church of Scientology versus Russell Miller and Penguin Books, Ltd.

II-G --

THE COURT: Counsel, approximately 40 documents ago, I asked you how much more evidence you have, and you said 30 documents.

MR. GREENE: I apologize.

THE COURT: Were you -- were you falsely stating something then, or what?

MR. GREENE: Well, in -- not intentionally, no, I wasn't; I was making --

THE COURT: Oh, is that a fact? Well, how many do you have now? Count them.

MR. GREENE: Give me a moment and let me count.

THE COURT: I certainly will, yes. I want you not to make a statement to me unless you know what you're talking about.

(Pause)

MR. GREENE: Ten.

THE COURT: Is there any reason that I shouldn't hold you to that?

MR. GREENE: No.

THE COURT: All right. Just a second. Please go ahead. You've just finished with No. II-F.

MR. GREENE: Correct. Next is II-G.

THE COURT: Right.

MR. GREENE: Same caption as the previous II-F, another affidavit of Kenneth David Long, also sworn October 5th, 1987.

II-H, same caption, another affidavit of Kenneth David Long, also sworn October 5th, 1987.

Exhibit II-i, same caption. This document entitled "Affidavit of Sheila MacDonald," M-A-C, "Chaleff," C-H-A-L-E-F-F.

MR. WILSON: C-H --?

MR. GREENE: -A-L-E-F-F. Sworn October 5th, 1987.

II-J is next, with the same caption as the prior ones, "Affidavit of Kenneth David Long," sworn 7th October 1987.

Next, identified as Roman II-K, same caption, this simply entitled "Affidavit," sworn 8 October 1987, by Kenneth David Long.

Roman II-L is previously identified as the other settlement agreement that was six pages long.

II -- Roman numeral II-M is a one-page letter dated November 7, 1984, to Eugene M. Ingram, I-N-G-R-A-M, private investigator, from Phillip Rodriguez, R-O-D-R-I-G-U-E-Z, police officer.

Roman numeral II-N is a document dated April 23rd, 1985, entitled "Public Announcement by Daryl F. Gates, Chief of Police, Los Angeles," with a certification date of May 16, 1985.

Roman numeral II-O is a letter dated April 25th, 1986, to Reverend Ken Podin and other individuals at the Church of Scientology from Robert N. Jorgenson, Office of the District of Attorney -- District Attorney, County of Los Angeles.

Finally, is the Request for Judicial Notice and Collateral Estoppel, filed in this court in this case on May 7, 1992.

THE COURT: Defense objections to the plaintiff's proffers?

MR. GREENE: Your Honor, I don't know if it would make it any easier for us to tell you to what exhibits of the plaintiffs we stipulate.

THE COURT: I don't either. Why do you make that point?

MR. GREENE: Well, because there's a couple -- one, if there are items to which we stipulate, we have submitted legal arguments that may truncate this proceeding if the Court pleases to address those first, and if not, we can go ahead. That is merely a suggestion.

THE COURT: I don't know what you're talking about.

MR. GREENE: What I'm talking about is --

THE COURT: I don't think that's entirely my fault.

MR. GREENE: -- one, the pending demurrer to which, when we were last before Your Honor we called to your attention and the argument submitted therein in Local Rule 314.

THE COURT: Make your argument on that point.

MR. GREENE: Okay. On that point, what the plaintiffs are seeking here is an injunction compelling the specific performance of the settlement agreement at issue. In order for plaintiff to adequately see and make on its face the necessary showing to be entitled to that relief, the plaintiff has got to affirmatively allege that on its face, the agreement is fair, just, and reasonable to the defendant. The pleading required is different from that which is required from an ordinary breach of contract action. The reason for that, of course, is that an action for --

THE COURT: I understand the reason for it. Is that the -- the totality of your point, that there's not an adequate allegation that the agreement is fair, just and reasonable?

MR. GREENE: And in support of that, the public policy arguments that --

THE COURT: Okay. Plaintiff?

MR. WILSON: Yes, Your Honor. First of all, I'm not going to bother the Court with going through the whole Complaint and showing the Court what has been alleged, but we have alleged very specifically the agreement. We've alleged the consideration that was paid. We've alleged the -- the -- in fact, we've incorporated the agreement and we've alleged the breach is now to the extent that the Complaint is not -- is deficient and does not support the relief because the magic language -- the conclusory magic language, I might add -- that the -- that the consideration wasn't fair, just and equitable, I would point the Court to a provision of the law in Discovery Manual which provides -- it talks about this matter of a demurrer being pending.

THE COURT: Don't make any further argument; I understand the points being made.

MR. WILSON: I want -- I want --

THE COURT: Stop. I understand the points being made on both sides; I understand that this is an objection to any further proceedings with respect to this application for provisional relief. The objection is overruled. Go forward on the merits; make your objections if you have any to the -- pardon me -- to the evidence adduced by the other side.

Defendant?

MR. GREENE: I'm sorry, Your Honor, I didn't hear what you said.

THE COURT: Defendant's objections to plaintiff's proffers.

MR. GREENE: Okay.

(Pause)

MR. GREENE: There is no objection to the settlement agreement.

THE COURT: Do you have more objections, or do you have more stipulations? Counsel, I really expect you to move forward with this thing.

MR. GREENE: Sir.

THE COURT: Look: you get yourself organized, Counsel. The course of the proceedings must by now be perfectly obvious to you. One side has proffered some evidence; you've proffered some evidence. I'm going to get your objections to his evidence; I'll rule on them; I'll get his objections to your evidence; I'll rule on them, then I'll go ahead with the hearing.

If that was a mystery or a riddle, I've solved it for you. I don't think it was a mystery or a riddle; I think what's happening is that there is a deliberate effect -- intention here to protract and to stall and to delay. I won't be a party to it. Be ready when you come back here at 1:30. I expect you to move forward with dispatch.

MR. GREENE: Yes, Your Honor.

THE COURT: The matter is recessed until 1:30. I order the attorneys who are handling the matter to be back here. That of course excludes Mr. Berry who has managed to preserve his kind of bystander status. Be back here at 1:30 ready to go forward.

The steps will be, defense objections to plaintiff's proffers, then plaintiff's objections to defendant's proffers, then I'll hear you on the merits if there is something to be heard. We'll finish the argument most likely today, without any serious difficulties. Thank you very much, Counsel.

(The Court recessed at 12:00 p.m., until 1:30 a.m.)

(Court is called to order)

THE COURT: Back on the record in Scientology against Armstrong. BC52395. The attorneys who were before the Court before the midafternoon recess are before the Court again. Go ahead with your objections to the plaintiff's submittal, please.

(Pause)

MR. GREENE: I have no objections to Item 2 on the Declaration of Lawrence Heller, January 1992.

As to the second Heller declaration of March 2nd, '92, we would object only to Exhibit B thereto, on the transcript of the video tape; I think the video tape is the best evidence.

Item 4 --

THE COURT: Counsel.

MR. WILSON: Your Honor, best evidence is not a proper objection. That best evidence has to do with when you're submitting a document and saying the original of the document; the transcript is verified by Mr. Heller. It is, of course, primarily submitted for the convenience of the Court in the event the Court doesn't want to look at the video tape.

THE COURT: The objection is overruled. Go ahead, Counsel for the defendant.

MR. GREENE: No objection to Item No. 4.

Item No. 5, the transcript of the August 6, '91 hearing in RTC versus Yanny, we don't have any objection to that and we simply request a reciprocal courtesy from counsel when it comes to transcripts that we are seeking to have before the Court. This transcript is not certified, but we don't have any problem --

THE COURT: Is there going to be any difficulty with that?

MR. WILSON: We will have no difficulty insofar as the cert -- as any certification or authentication type of objection; we may have some relevancy objection. I have to go look at my list of objections to tell you which ones we're objecting to right now, and I'll do that if you want, but --

THE COURT: Go ahead with your objections, Counsel for the defendant.

MR. GREENE: Shall I proceed, Your Honor?

THE COURT: Yes, you should.

(Pause)

MR. GREENE: We don't have any objections to any of the remaining items. There's one item about which I'm a little bit unclear, and that is, I don't think that the plaintiff has submitted a verified complaint in support of the motion for preliminary injunction.

THE COURT: That's correct.

MR. GREENE: All right. Then I need not address that.

MR. WILSON: Your Honor.

THE COURT: Mm-hmm.

MR. WILSON: If I did not, it was an inadvertence. I must have, then, only admitted or offered the admission of Exhibit A, and I did mean to move the admission of the Complaint, and I apologize for that error. I was -- I had that on my list as No. 1, but I think what I did was I said Exhibit A, and then didn't -- which is the agreement.

THE COURT: That's right.

MR. WILSON: I apologize; that was an oversight. I meant to move the Complaint and Exhibit A.

THE COURT: Go ahead. Any more -- do you have any more alarm bells you want to ring, Counsel for defendant?

MR. GREENE: Yes. With respect to the verified Complaint, it's improperly verified. It's verified by counsel. We object on that basis, on the basis that the contents stated therein are hearsay; there is no foundation for those statements, and on those grounds, we'd object.

THE COURT: Plaintiff?

MR. WILSON: Your Honor, the Complaint was properly verified in that I am not -- my office is not in the same county as the plaintiff. Also, the --

THE COURT: He doesn't have any problem with verification as a pleading; his -- he recognizes that if he were made to answer that on behalf of his client, he'd have to answer it by means other than a general denial. He'd have to make particularized allegations. His point is that to the extent that it's tendered as evidence, it's defective, because it doesn't contain any indication that the asserted evidentiary contents are competent.

MR. WILSON: Actually, Your Honor, that is a proper objection, but that isn't the one that he made.

THE COURT: It certainly is.

MR. WILSON: I think he said authentication and hearsay, which --

THE COURT: Hearsay is what it is.

MR. GREENE: Also, no foundation.

THE COURT: Anybody have anything more to say on it?

MR. WILSON: No, Your Honor.

THE COURT: The objection is sustained. Go ahead, Mr. Greene.

MR. GREENE: Your Honor, that's --

THE COURT: That concludes --

MR. GREENE: -- the sum and substance of our objections.

THE COURT: All of the other materials tendered by the -- by the plaintiff are received in evidence, subject only to the rulings heretofore made. Go ahead with -- go ahead with your client's objections to the defense proffers.

MR. WILSON: Yes, Your Honor. First of all, Item No. 1, Exhibit A in support of Mr. Yanny's request for judicial notice entitled "Jerry Armstrong Project," the objection is lack of proper authentication, hearsay, and relevance.

THE COURT: Just a second.

(Pause)

THE COURT: Let me have -- let me have the foundational stuff regarding that, Ms. Cervantes, if I don't already have it here. It's the document entitled "Yanny's Request for Judicial Notice."

(Pause)

THE COURT: If one of you has an extra copy of it, give that to Ms. Cervantes so that we don't, pardon me, so that we don't spend time that we could be using for --

MR. WILSON: Your Honor, this is not an extra copy, but I have notes, and I can -- I think I can do it from my notes. And that --

THE COURT: All right. Keep your own papers, if you don't have an extra. Something called amicus curiae, it's a request for judicial notice.

MR. BERRY: Your Honor, I doubt if I'll be needing mine.

THE COURT: Why don't we use it.

No; this is your declaration, Mr. Berry. They're talking about the request for judicial notice.

MR. BERRY: Oh.

THE COURT: It looks a little like it, it's thick, yes.

MR. BERRY: Excuse the other --

THE COURT: That's all right. Plaintiff, your objection was to Exhibit A --

MR. WILSON: Yes.

THE COURT: -- attached to the request?

MR. WILSON: Yes. Actually, Your Honor, I'd like to back up a second. I have a general objection to all of the documents submitted under cover of Mr. Berry's request for judicial notice and his declaration, on the basis that the case Yanny -- RTC versus Yanny, which is the basis for the intervention motion, has been dismissed, and therefore, no proper reason for Mr. Berry to be -- Mr. Berry's client to be an amicus. That would go to very document submitted under cover of Mr. Berry's -- either the request for judicial notice or his declarations.

THE COURT: Defendant?

MR. GREENE: Your Honor, we have, all the way through this litigation, incorporated the very able work of Mr. Yanny's lawyers in our opposition to the relief sought by plaintiff. And even if the Yanny case, as it was, was dismissed, it doesn't diminish our reliance on those documents as well. At the risk of speaking for Mr. Berry, who can't speak, it's my understanding that the Yanny II dismissal is going to be appealed and may be reversed, and so Yanny's interest in this case is not terminated by the fact of the dismissal.

THE COURT: That phase of your objection is overruled. Do you want to argue as to the second aspect of his objection to Item I-A?

MR. GREENE: I'm sorry. Let me ask you to repeat that.

MR. WILSON: Yes, you may. Number one, it's unauthenticated; it's a request for judicial notice, and this is not something that can be judicially noticed. It's unauthenticated; lack of proper foundation; and also, it's irrelevant. Doesn't tend to prove anything at issue here.

MR. GREENE: With respect to lack of authentication, part of the record in Armstrong I, concerning which we have asked the Court to take judicial notice; two, with respect to its relevancy, it is relevant to Gerald Armstrong being the subject of the so-called fair-game policy which is irrelevant to whether or not Scientology comes to this courtroom with unclean hands in seeking the equitable relief it does.

THE COURT: Plaintiff?

MR. WILSON: Your Honor, it's a 1982 document, which is ten years ago, which is four years before the settlement agreement entered into here. Also it's -- it is not authenticated; merely saying it is part of the record doesn't authenticate the document. And in the request for judicial notice itself, it just says that the amicus request the Court to take judicial notice of the following documents.

THE COURT: The objection is sustained.

MR. GREENE: Thank you, Your Honor. Next, Item No. 2, which is Exhibit C to that same declaration, on the basis of relevance. It's the opposition to a motion for summary judgment in a case called Corydon versus Michael Flynn, and has no tendency to prove any fact at issue here.

MR. GREENE: Our response to that is that the reason it is relevant is because that particular document tends to establish what the major thrust of our defense is; that what Scientology seeks to enforce constitutes an obstruction of justice because it suppresses evidence and it makes it impossible for people who have been harmed by and in relation to the conduct of Scientology to gain any relief.

THE COURT: To achieve that function, would I have to believe the truth of the assertions contained in the declaration?

MR. GREENE: Yes, you would.

THE COURT: The objection is sustained.

MR. GREENE: Also, Your Honor --

THE COURT: Go ahead with your next objection.

MR. WILSON: Thank you, Your Honor. The next is Exhibit D to that request. It's the Aznaran versus CSI opinion, again on the basis of relevance. It has no tendency to prove any -- anything at issue here. Whatever happened between Ms. Aznaran and the Church of Scientology isn't relevant to what happened between the Church of Scientology and Mr. Armstrong after the settlement agreement was entered into in 1986.

THE COURT: Defendant?

MR. GREENE: Your Honor, it is relevant. Specifically what the relevance is that in this 9th Circuit opinion, it's on a writ from a denial of a very similar motion for preliminary injunction enforce -- seeking to enforce almost an identical settlement agreement. In the Aznaran case, and at Page 4 of the opinion, the Court in the 9th

Circuit specifically finds that the cause of the existence of a liquidated damages clause there is not able to be made the required showing of irreparable injury on it, and so it's -- it's right on point and it is relevant.

THE COURT: Wait a minute. You're, then, asking me to take notice of the document because of its precedential effect, right?

MR. GREENE: Yes, that's correct.

THE COURT: Not its evidentiary effect, correct?

MR. GREENE: That's correct.

THE COURT: Deal with the footnote at the bottom of Page 1. It's footnote asterisk.

MR. GREENE: That particular rule applies to the federal courts, and I am not aware of any rule which would preclude this Court from making reference to the fact that on almost identical issues, a federal court made the ruling that's reflected here.

THE COURT: But what this means is that this opinion would not be binding precedent in the state court at all, correct? Because the federal court has absolutely no power to make a pronouncement which has binding precedential effect on a matter of non-federal law which would bind any state court, correct?

MR. GREENE: Auto-equity, yes, it could be persuasive, nonetheless.

THE COURT: All right, that's point 1. Point 2, the opinion is not even subject to being cited by the federal courts over whom the 9th Circuit -- or over which the 9th

Circuit has at least formal supremacy, correct?

MR. GREENE: That's correct.

THE COURT: The objection is sustained.

MR. GREENE: Let me add one thing, Your Honor: In terms of evidentiary value, what this is relevant to show is an effort made by the Scientology organization to suppress individuals who have first-hand knowledge of the misconduct engaged in by Scientology, from being able to disclose that, on two other people and two other litigants. And for that purpose, this has evidentiary value.

THE COURT: I believe that that's not a valid basis for offering it because that falls afoul of the provisions of Evidence Code 352. It would require me in essence to evaluate and try the issues involved in United States District Court CV-88-1786-JMI, which was apparently the subject of the memorandum unpublished and unpublishable opinion in United States Court of Appeals for the 9th Circuit No. 90-55288, and that would violate both of the precepts involved in CCP -- in Evidence Code 352, and I exclude this from consideration for that reason. Go ahead.

MR. WILSON: Thank you. The next objection is to Exhibit E in the request for judicial notice which is a motion for preliminary injunction in the Aznaran case, and the basis for that objection is relevance. Again, it tends to prove nothing of value in this case. The arguments about duress, fair game, et cetera, are not proven by what or what may not have happened with respect to the Aznarans in the church.

THE COURT: Why?

MR. WILSON: Because the Aznarans are not Mr. Armstrong, and the time period is not the time period that we're talking about here.

THE COURT: Well, this is a motion for preliminary injunction, correct?

MR. WILSON: It's our motion.

I'm sorry. That objection will be withdrawn. I apologize.

THE COURT: All right. The objection to Item 4 is withdrawn. That will be received. Go ahead.

MR. WILSON: The next objection is to Item 9.

THE COURT: Item 9? All right.

MR. WILSON: Would you like me to specify the ones we're not objecting to?

THE COURT: No, that's all right. If you get down to one, I'll understand that you're not objecting to any ones --

MR. WILSON: Okay.

THE COURT: -- before that except the ones that I've already ruled on; is that correct?

MR. WILSON: Yes.

THE COURT: Okay.

MR. WILSON: And I'll say the number and what we're objecting to, and if we don't agree on --

THE COURT: Sure. If the numbers don't line up --

MR. WILSON: Right.

THE COURT: -- we'll be able to note it. Number 9 on my notes is Armstrong I memorandum of intended decision with file stamp June 22, 1984, by Judge Breckenridge, signed June 20, 1984.

MR. WILSON: That's correct.

THE COURT: Just one second.

We've finished up everything now in the request of the amicus for judicial notice, haven't we? That doesn't come back again.

MR. WILSON: I think that's right, Your Honor.

THE COURT: Okay. I'll just put that over here, and try to get to the next packet of materials. Just one second.

MR. WILSON: We are now into Mr. Berry's declaration.

(Pause)

THE COURT: This now is the memorandum of intended decision?

MR. WILSON: Yes.

THE COURT: File-stamped June 22, 1984, by Judge Breckenridge, signed June 20, 1984. Just one second. Go ahead.

MR. WILSON: The objection to that, Your Honor, is lack of authentication as to how Mr. Berry knew that that's what it was, and secondly, relevance. It's the decision in 1984 which was two years before the settlement agreement was entered into.

THE COURT: Well, pardon me. Is the -- when you say authentication, is it your client's contention that this document is inauthentic and that I wouldn't find it if I were to look in file No. C420153?

MR. WILSON: No; you would find it.

THE COURT: What's your view as to the objection expressed, Counsel for the defendant?

MR. GREENE: On authentication?

THE COURT: Any point you want to argue. You heard the objection.

MR. GREENE: Well, as to authentication, it is authentic; it's also the subject of our request for judicial notice as to relevance. It's directly relevant, one, to what one of the purposes of the settlement agreement were, which was to eliminate this opinion.

It is directly relevant to the item of plaintiff's evidence -- I believe it's item No. 4 -- it shows the payment of the settlement amount. The Court will notice that the individuals for the Defendant Armstrong in Armstrong I, concerning whom Judge Breckenridge specifically credits as being believable and as being sympathetic witnesses are the same individuals who were settled with and subject to the types of agreements -- or the type of agreement that is -- the plaintiff is seeking to enforce against Armstrong.

THE COURT: What point are you trying to make?

MR. GREENE: That it's directly relevant to Scientology's motivation to obstruct justice, and it's also relevant to whether or not Scientology comes into this court with clean hands, and it's also relevant to what the purpose of the settlement agreement was.

As the Court -- the settlement dealt with a number of different aspects. One of the aspects in -- I'm sorry to argue, and it's -- I -- I don't want to argue and take up the Court's time; all I can say to you --

THE COURT: No; I can help you. The objection is overruled. I'm overruling it on the narrowest basis; I just think that it's relevant to the issues presented in this action because it presents a foundation and background concerning the circumstances leading to the making of the agreement which is at issue in this proceeding before me.

The other points that you made, I'm not commenting on one way or the other. It doesn't seem to me that it's necessary to deal with it at all now.

MR. GREENE: Yes, sir.

THE COURT: Go ahead, Counsel for plaintiff.

MR. WILSON: Thank you, Your Honor. Item 10 is Exhibit H, the Aznaran Complaint. We object on the basis of relevance, and also that -- if we need to get into it, we can, but we'd have to go through it paragraph by paragraph because it contains hearsay conclusions that are also inadmissible.

THE COURT: Let's see whether that's going to be a problem or not. Counsel for defendant, what's your theory concerning the Aznaran Complaint?

MR. GREENE: It's relevant, Your Honor, one, to what Scientology was seeking in its motion for an injunction in that case to silence the Aznarans from being free to express. And so that goes to the larger issue of whether what Scientology seeks to prevent Armstrong from expressing is part of a larger pattern, all of which goes to the issue of whether or not the agreement violates public policy if it's an obstruction of justice.

THE COURT: How does the allegations made by Aznarans in their Complaint show anything along the lines that you were talking about?

MR. GREENE: I'm sorry, Judge; I had two people talking and I didn't hear you.

THE COURT: How does anything alleged by the Aznarans in their Complaint show anything along the lines that you were talking about?

MR. GREENE: What is alleged in the Aznaran Complaint, for example, is Scientology's practice of fair game. What that practice was as it applied to the Aznarans, what specific acts Scientology took with respect to the Aznarans.

THE COURT: So I'd have to believe the contents of the Aznarans' Complaint, right, for it to have the effect that you're talking about?

MR. GREENE: No. You don't have to believe that. But --

THE COURT: You mean it would be pertinent for me to know what somebody in 1988 alleged?

MR. GREENE: Yes, it would be.

THE COURT: The objection is sustained.

MR. WILSON: Thank you, Your Honor. Next is Exhibit I, which is the Yanny Complaint, and the objection is the same, as to relevance, and again, if we get --

THE COURT: You call it the Yanny Complaint; I understand it as the Complaint by your client --

MR. WILSON: I'm sorry.

THE COURT: -- and others against Mr. Yanny. Is that an accurate statement or description of what it is?

MR. WILSON: Your statement is accurate; my shorthand note is Yanny Complaint; that's how we refer to it. I apologize.

THE COURT: Okay.

MR. WILSON: It's Religious Technology Center versus Joseph Yanny, and it is Item 11 of the evidence proffered by Mr. Greene, Exhibit --

THE COURT: What's your client's basis for objecting to it?

MR. WILSON: It's not relevant.

THE COURT: Mr. Greene?

MR. GREENE: Our position is that it provides background material that's relevant to what Scientology claims Armstrong to have done specifically to assist Mr. Yanny in his litigation against Scientology.

THE COURT: The objection is overruled.

MR. WILSON: The next objection is to Exhibit J, which is the answer to the RTC versus Yanny Complaint, on the basis of -- I won't make the relevance objection because I heard what you said before. But it is -- does contain hearsay statements, conclusions, and it really -- it really isn't relevant.

THE COURT: Why should I -- how can I receive your client's Complaint without receiving Yanny's answer?

MR. WILSON: I take your point, Your Honor.

THE COURT: Well, is it a good point or a bad point?

MR. WILSON: It's a good point.

THE COURT: Well, I'll tell you what I'm going to do: I'm going to overrule your objection, but I'm going to do it on the following premise: that I do not accept the truth of any matter stated in the Yanny answer, but I'm using it simply to put the issues involved in Case BC033035 into focus. Please go ahead.

MR. WILSON: Thank you. The next objection is as to Item 14, Exhibit L to the Berry declaration.

THE COURT: Item 14, just a second. What we were just working with was Item I, right?

MR. WILSON: Right. No, J --

THE COURT: No; it's Item J, I mean.

MR. WILSON: Right.

THE COURT: No; it's item No. 12.

MR. WILSON: Correct.

THE COURT: And now we're on No. 14?

MR. WILSON: Right.

THE COURT: Just a second. Your client's objection?

MR. WILSON: The objection is that it's not relevant. It's Mr. Berry's letter to Ms. Bartilson in which he requests that she not try to seek a TRO in this case.

THE COURT: Counsel for defendant? Well, actually, it's two things: it's two letters from Berry, one dated March 13 and one dated February 28, both 1992?

MR. WILSON: Yes, Your Honor, I --

THE COURT: Let me just see. He only wanted the

March 13th letter. Okay. Mr. Greene?

MR. GREENE: Our position is that it's relevant to the obstruction of justice in the effort by Scientology to silence knowledgeable individuals about its activities from providing any kind of assistance to other litigants.

THE COURT: The objection is sustained.

MR. GREENE: Your Honor, before we move just a step further, I would ask if you would reconsider your ruling as to the Aznaran Complaint and rule on it in the way that you did as to the Yanny II Complaint.

THE COURT: My ruling stands as to that. Thank you. Go ahead with your next objection, if any, Counsel.

MR. WILSON: Thank you, Your Honor. The next is Item 17 --

THE COURT: Yes.

MR. WILSON: -- which is Exhibit O, which is a meet and confer statement of 20 February 1992. It's in the Yanny case, and the basis for that objection again is relevance.

THE COURT: Counsel for plaintiff -- or for defendant?

MR. GREENE: It explains the background of the Yanny case and is relevant to the interaction between Yanny and Armstrong.

THE COURT: The objection is sustained in the -- objection is sustained on the grounds of relevancy; I'm relying on the classical standard of relevancy and on Evidence Code 352, and I do so in connection with this document as well. Go ahead.

MR. WILSON: The next objection is to Item 17 which is Mr. Armstrong's declaration that's Exhibit P --

THE COURT: That was Item 17, I believe, Counsel --

MR. WILSON: I'm sorry, Your Honor; 18.

THE COURT: Yes, sir. Exhibit P, Declaration of Armstrong --

MR. WILSON: And it als --

THE COURT: Just one second, please. I have the Declaration of Armstrong.

MR. WILSON: Okay. I had made my notes on another volume where it appears, so if you'll just give me a minute to get it.

THE COURT: No problem; of course.

MR. WILSON: And I'm afraid I'm going to have to go through this one paragraph by paragraph, because of course it is in this case. And on Page 3 --

THE COURT: Yes, sir.

MR. WILSON: -- Paragraph 5: "Through my research and study of documentary evidence, I was compelled to conclude that Mr. Hubbard had lied," et cetera, et cetera. That's opinion.

THE COURT: That sentence?

MR. WILSON: That sentence, yes.

THE COURT: Counsel for defendant?

MR. GREENE: One, it's supported in terms of foundation by the decision of Judge Breckenridge in his memorandum of intended decision. Two, it goes to the issue of why it is that Scientology wants to enforce this agreement against Mr. Armstrong so as to be able to, one, gain an unfair edge in any judicial proceedings that it's involved in, and two, be able to disseminate information about Hubbard without any -- in public forums -- without any contrary evidence coming in from knowledgeable persons. And it also goes to Mr. Armstrong's state of mind.

MR. WILSON: Excuse me, Your Honor, but whether something goes to his state of mind doesn't meet an objection on the basis of opinion, and none of Mr. Greene's comments met the objection as to the one that we made, which was that it's opinion.

THE COURT: How about Section 800, evidence code? Is the opinion objection overcome by that?

MR. WILSON: I'd have to look at that particular section again, Your Honor.

THE COURT: Sure.

MR. WILSON: And I apologize for not having it in front of me.

THE COURT: Okay. Here's how it reads:

READING:

> "If a witness is not testifying as an expert, his testimony in the form of an opinion is limited to such opinion as rendered by law, including but not limited to an opinion that is rationally based on the perception of the witness and helpful to a clear understanding of his testimony."

I've left the subsection designations out.

MR. WILSON: That's fine. I understand your point.

I think that it -- while it may be rationally based, you can't tell from reading this that it is; he just says he -- through his research and study he was compelled to conclude that he had lied, and then he lists generalities about past, credentials, accomplishments, relationships and intentions. It's so general that it doesn't really help a rational understanding of what -- what he's saying.

THE COURT: The objection is sustained. That is as to Page 3, Line 25, to Page 3, Line 27, that single sentence. Go ahead, please.

MR. WILSON: And the next sentence, the objection is it's also opinion and it's also hearsay. And it's hearsay in that he -- I obtained evidence which disproved many of the claims. For example, "evidence" is a term of art when we use it and when Your Honor uses it; we don't know what it means when Mr. Armstrong uses it. And again, it's -- it's hearsay as well because we don't know what he's -- what -- who told him what, and what the evidence was.

THE COURT: I'm going to make the opposite ruling in connection with this sentence. This, I think, is simply his effort to describe what he thinks he observed as to the content of this material. I will permit that. It's like the opinion that somebody is drunk; it's, technically speaking, potentially an opinion -- pardon me -- but it is in our common understanding and it's the kind of thing that people are permitted to give shorthand statements about. Go ahead, please.

MR. WILSON: Thank you. The next objection begins on Line 8 of the next page and goes through Line 22, and it starts with the phrase:

READING:

> "I had by this time obtained evidence which disproved the significant representations Hubbard had made about himself or his technology which had drawn me into and kept me in the organization."

THE COURT: Yes. I understand. I'll leave that in. I recognize that this is his view of it; he doesn't state what it is. He's just talking about what he thinks some information does; it's not highly persuasive, but he's trying to describe what he thinks is his -- is the result of a search for information. That objection is overruled.

MR. WILSON: I was also going to say that it's hearsay as to what Mr. Hubbard said -- that he was an engineer, that he did this and this and this. The next objection --

THE COURT: Is Hubbard a person -- is Hubbard a person who was affiliated with your client?

MR. WILSON: He was the founder.

THE COURT: Would that be a -- an admission which would be imputed to your client?

MR. WILSON: I don't think so, because I don't think that any of these things, number one, comes up to being an admission; and number two --

THE COURT: Wait, it's --

MR. WILSON: -- are relevant.

THE COURT: -- it's got to be an admission if it's a statement made by somebody who has -- pardon me -- an appropriate relationship with an adverse party.

MR. WILSON: Your Honor, he was not in -- he's not a member of the corporation. He was a founder of the predecessor. But none of these things are -- would be admissions even if he were. Because they're not -- adverse.

THE COURT: No; I'm not talking about -- I'm talking about an admission; I'm not talking about a declaration against interests.

MR. WILSON: I still don't see that they would be admissions.

THE COURT: Why not?

MR. WILSON: It's my understanding of "admission," it has to be admission of a fact to be used against the party that's supposedly admitting it; not that it's simply establishing a fact.

THE COURT: Okay. Then we have a --

MR. WILSON: I may be wrong on that, but that's what I think it is.

THE COURT: -- we have a conceptual difficulty, then, which we ought to be able to address by reference to the law. Just a second.

(Pause)

THE COURT: I'm talking about admissions as discussed in Evidence Code, Sections 1220 to 1228, evidence of a -- this is 1220:

READING:

"Evidence of a statement is not made inadmissible by the hearsay rule when offered against the declarant in an action to which he is a party in either his individual or representative capacity, regardless of whether the statement was made in his individual or representative capacity."

THE COURT: See, that doesn't have anything to do with the content of the statement; it has to do with the identity of the person making the statement, and it has to do with the relationship between the person making the statement and the party against whom it's offered.

MR. WILSON: Your Honor, Mr. Hubbard's not a party, and Mr. Hubbard died in 1986, and -- the plaintiff was formed -- the plaintiff was formed prior to that time, but he has no involvement with them; he's been dead for six years.

THE COURT: No; I'll permit the material, nevertheless.

MR. WILSON: Thank you, Your Honor. Moving to Paragraph 6: "Following my departure, the organization published a declaration dated February 18, labeling me," et cetera. The objection to that is to lack of knowledge, foundation. If he -- if it was after he departed, we don't know how he knew and he doesn't say in his declaration how he knew.

THE COURT: Counsel for defendant?

MR. GREENE: This -- the declaration was part of and attached to exhibit as an exhibit to Armstrong's Cross-Complaint in Armstrong I. And that being the case --

THE COURT: What are you talking -- what are you talking about? This is a declaration that was in the case -- in Marin County Case 152229.

MR. GREENE: Right.

THE COURT: And it was for a hearing of March 20th, 1992.

MR. GREENE: And reference is made in Paragraph 6 to a declaration dated February 18, 1982.

THE COURT: Yes.

MR. GREENE: That labeled Armstrong a suppressive person, which subjected him to the fair game policy. And counsel's objection is that Arms -- that Armstrong didn't have any -- any knowledge of this. Arms --

THE COURT: Not that he didn't have knowledge of it, but it doesn't show as knowledge. He's making an objection based on foundation.

MR. GREENE: The document is attached to Armstrong's Complaint, which has been submitted to the Court.

THE COURT: Where?

MR. GREENE: Just a second, I will tell you. This was -- in Armstrong's evidence -- Roman numeral I-F --

THE COURT: Which -- which of your exhibits?

MR. GREENE: That's what I'm -- the one that we identified as --

THE COURT: I-F?

MR. GREENE: -- I-F, which is the Third Amended Complaint in Armstrong I.

THE COURT: So that's Item 56. Mind supplying me with that?

MR. WILSON: We have an objection to that, which we could take up now, I suppose.

THE COURT: Let's do it.

(Pause)

MR. WILSON: I think my notes show that it's 55.

THE COURT: Well, mine show it as 56, but it doesn't make any difference. Mr. Greene didn't number it in his own notes.

MR. WILSON: I've got -- I know whom we're talking about.

MR. GREENE: It's -- Your Honor, it's also part -- it's referred to in Judge Breckrenridge's decision on Page 5.

THE COURT: Let's see if we can deal with these things one by one.

MR. GREENE: I have the declare --

THE COURT: Fine. Give it to me now.

MR. GREENE: Yes, sir. May I --

THE COURT: Give it to Ms. Cervantes.

MR. WILSON: I'm prepared to make my objection any time.

THE COURT: Well, actually, exhib -- pardon me -- Exhibit I-F -- pardon me -- is a Third Amended Cross-Complaint for damages; my notes reflect that it was a Third Amended Complaint, but does everybody agree that it's the Third Amended Cross-Complaint?

MR. GREENE: Yes.

THE COURT: Everyone?

MR. WILSON: That's how I see it.

THE COURT: All right. Go ahead. What is it --

MR. WILSON: The objection on that is --

THE COURT: -- you want to say about that?

MR. WILSON: -- very simply, it's an unverified complaint signed by counsel --

THE COURT: So that's not evidence, either --

MR. WILSON: Right.

THE COURT: -- at least as to the truth of the matters stated in it, right?

MR. WILSON: Right, and so that plus the exhibits should be strick -- strucken -- stricken. Excuse me.

THE COURT: Well, if -- it's not so much that it should be stricken; it's that it doesn't constitute evidentiary foundation for any other statement. That's your theory. We haven't -- he may be offering it for some purpose other than as a foundation for the exhibit we've been talking about, right?

MR. WILSON: I -- I don't know why he's offering it, except --

THE COURT: All right.

MR. WILSON: -- for that purpose.

THE COURT: Okay. Do you want to say anything more about either Exhibit I-F or I -- yes, I-F or --

MR. WILSON: The exhibit?

THE COURT: -- or this declaration, Mr. Greene?

MR. GREENE: Yes.

THE COURT: Go ahead.

MR. GREENE: It provides background information with respect to the relationship between Armstrong and Scientology; it is referred to specifically at Line -- Lines 14 and 15 on Page 5 of Judge Breckenridge's decision and is part of the record in Armstrong I. There is sufficient authentication for it, and it's relevant.

THE COURT: Where does Judge Breckenridge refer to-- I -- I would -- I reject all the asserted bases that you've talked about except the reference to the Breckenridge decision. Let me just see where you think it's referred to in the Breckenridge decision. Where is the --

MR. GREENE: Page 5.

THE COURT: Where is the Breckenridge decision?

(Pause)

MR. GREENE: That is Item G of Yanny's evidence.

THE COURT: I don't see that. You mean the request for judicial notice? Mr. Greene?

MR. GREENE: Yes, sir. I -- it is -- no. The declaration of Graham E. Berry to all evidence in support of amended amicus curiae brief, original filed May 8, '92 --

THE COURT: So it's not Yanny's request for judicial notice; it's the Berry declaration, right?

MR. GREENE: It's the Berry declaration which is on behalf of Yanny. I'm sorry.

THE COURT: And what page do you want to look at?

MR. GREENE: At Page 5.

THE COURT: I'm on that page. And what is it that you want to find out?

MR. GREENE: Directing the Court's attention to

Lines 14 and 15.

THE COURT: Just a second.

MR. GREENE: And the context would be 9 through 15.

THE COURT: The objection is sustained. That doesn't lay a foundation for it either.

MR. WILSON: Your Honor, so I may be clear, we were, we had now skipped and we were talking about this amended cross-complaint and the exhibit to it.

THE COURT: That's not what I was dealing with. I was dealing with the material on the -- in this declaration of this defendant --

MR. WILSON: Okay.

THE COURT: -- that you were -- that you were dealing with. If you want to express your objection as to Exhibit 56 now, that would be all right, I have --

MR. WILSON: Okay. I think --

THE COURT: -- no quarrel with that. Your objection is what?

MR. WILSON: The objection to that one is relevance, Your Honor. And it also --

THE COURT: To Exhibit 56, is relevance?

MR. WILSON: Sorry. Where are we?

THE COURT: Exhibit 56 is I-F to the Armstrong --

MR. WILSON: I'm sorry. I'm sorry. I misspoke. It's an unverified cross-complaint.

THE COURT: So?

MR. WILSON: Therefore, it can't be offered for the truth of any matter stated in it.

**THE COURT:** Plaintiff -- or defendant?

**MR. GREENE:** Offered for Mr. Armstrong's state of mind and to show the background of the relationship between the parties in this case.

**THE COURT:** The objection is sustained.

**MR. WILSON:** Thank you. Now, to move back into this declaration -- and I apologize if I take a minute here to make sure I'm in the right place -- I believe that the last objection that I made was as to the first sentence --

**THE COURT:** Let me ask you: did you and counsel for defendants get together to try to iron out any of your evidentiary objections?

**MR. WILSON:** Well, we had a very brief conversation where we basically agreed we weren't going to be able to agree. But I would not say we got through -- were able to go through it all, no.

**THE COURT:** Is there any reason that I shouldn't set down an order to show cause to determine why counsel had such a brief conversation, did not agree, and are now taking up the time of the public in ironing out these evidentiary points, and, if there is not good cause for it, sanctioning them monetarily, since they're taking time away from the preparation and hearing of other cases?

**MR. WILSON:** Your Honor, the only thing I can say is that we tried to keep our filing to a minimum, and had to meet all this -- all these things that were filed. And the way that we did it was first to file our evidentiary objections, then when we came into court here and heard how you wanted to handle it, went through and made our very specific objections.

THE COURT: Was there any other way to handle it? Was there any other way to handle it other than to have the factual record then hear legal argument?

MR. WILSON: There is no other way, as far as I can tell.

THE COURT: Mr. -- Greene and Mr. -- your last name is Wilson?

MR. WILSON: Wilson, Your Honor.

THE COURT: -- Mr. Wilson are ordered to appear before me and show cause why they should not be monetarily sanctioned pursuant to California Rules of Court 227 and California Code of Civil Procedure Section 128.5 at 8:30 on June 16, 1992, in this department; that's Department 88.

The elements that they should refer to are the evidentiary or purported evidentiary submittals in the case and the apparent failure of counsel to meet or confer or do anything with respect to trying to obviate some of the evidentiary difficulties associated with the various submittals.

And the failure of counsel appropriately to concern themselves with the obvious imposition on the public resource of the judiciary involved in sitting here and going through a whole series of objections as to this extensive evidentiary submittal, some items of which are manifestly inappropriate for receipt into evidence.

Just go ahead and comply with that order to show cause at the appropriate time. If you're going to submit any papers, the papers are due on a simultaneous briefing basis, no later than five court days before the hearing set before me, with no more than seven pages of double-spaced text on each side.

Go ahead. Make your next objection or do what you next have to do, please, Mr. Wilson.

MR. WILSON: Your Honor, I'm afraid I'm going to have to continue with my objections because --

THE COURT: Go right ahead. You handle the case any way you think is appropriate to do so. I don't mean at all to inhibit your presentation of the case. My concern is the concern that was expressed in the order that I just made. Go ahead.

MR. WILSON: I understand, Your Honor. The balance of that paragraph also contains unsubstantiated and there's no foundation for the -- for the statements that are made; why SP is considered in Scientology a certain way; what the fair-game policy is; does SP declare/accuse Mr. Armstrong of all these heinous crimes.

THE COURT: This is the remainder of Paragraph No. 6 in the --

MR. WILSON: That's right.

THE COURT: -- in the declaration of March 16, 1992, right?

MR. WILSON: Yes.

THE COURT: Just a second. And your -- the legal basis for your objection is what?

MR. WILSON: Lack of foundation, lack of -- lack of showing of personal knowledge.

THE COURT: Just a second. The objection is overruled.

MR. WILSON: Thank you, Your Honor. Paragraph 7, he says that the -- the first sentence --

THE COURT: Page and line, please.

MR. WILSON: Fourteen, Page 5, Line 14 through 18.

THE COURT: Just a second. Grounds?

MR. WILSON: The grounds are the same as for the similar sentence that appeared on the previous page, that there is no showing of personal knowledge that the organization published a second SP declare.

THE COURT: Same ruling; that objection will be sustained as to the purported description of the contents of the second publication; overruled as to all other portions of that sentence. Go ahead.

MR. WILSON: Thank you. The next page, Paragraph 8, the sense of that paragraph is that the organization employed a number of private investigators, and then during that period, one of the investigators assaulted him. The organization also attempted to get the Los Angeles Police Department to bring criminal charges. No showing of personal knowledge as to how he knows that it was the organization that did these things.

THE COURT: Defendant?

MR. GREENE: One, Armstrong testifies to this on the basis of his own personal knowledge. Two, it's part of the findings that are made by Judge Breckenridge at the end of his memorandum of intended decision --

THE COURT: Where is that?

MR. GREENE: Okay. We are looking first at the Berry declaration filed May 8 --

THE COURT: Right.

MR. GREENE: -- in this court --

THE COURT: Right.

MR. GREENE: Just a moment.

(Pause)

MR. GREENE: And we are looking at Pages 13 through 15 of the appendix, which is at the very end of the decision. Particularly --

THE COURT: Just a second.

MR. GREENE: Yes, sir. I'm sorry.

THE COURT: Go ahead. Tell me the page and line numbers.

MR. GREENE: Fourteen, 22 -- Line 22 through 15, Line 10.

THE COURT: Fourteen, 22, to 15, 10? All right. Just a second. Counsel for plaintiff.

MR. WILSON: Your Honor, the fact that the Breckenridge decision incorporates it doesn't authenticate and show that -- I'm sorry -- it doesn't give the personal knowledge background required for this declaration.

THE COURT: Doesn't it constitute a judicial finding of fact?

MR. WILSON: Yes.

THE COURT: Wouldn't it be appropriate, then, for the witness to say that, basing his statement without explicit attribution on a judicial finding of fact?

MR. WILSON: It might be, but he didn't do that.

THE COURT: Didn't he base his statement without attribution on a judicial finding of fact?

MR. WILSON: Without attribution, yes, he did.

THE COURT: Wouldn't it be appropriate for him to do that?

MR. WILSON: Well. I don't think that's what he did, because this state -- I don't -- I don't think that that's what he did, Your Honor. I -- I -- you just -- you just have a naked paragraph here that says what he thinks the organization did.

THE COURT: The Breckenridge decision is where; is it -- pardon me -- is it in evidence or not in evidence, Mr. Armstrong or Anderson?

MR. WILSON: I think it's in.

THE COURT: It is. So -- I'm sorry, Mr. Wilson. So that is there any sense in which this information is any -- that's in the -- Armstrong declaration, anything other than just rehashing what Judge Breckenridge wrote?

MR. WILSON: Well, I think you could accurately characterize it that way, yes. And it would be cumulative.

THE COURT: Yes.

MR. WILSON: The problem that I'm facing, Your Honor, is that we -- you've seen how much was filed and relied on, and I'd like to have a clean record.

THE COURT: I don't blame you. Let me have the engage in a so-called sting operation against Armstrong, which Scientology claims was in fact sanctioned by the Los Angeles County Police Department.

THE COURT: Does it -- does that declaration precisely track the language contained in paragraph No. 9?

MR. GREENE: No. It doesn't. It -- it --

THE COURT: So you want me to go with the content of the Farny declaration rather than with the content of the Armstrong declaration, to the extent that the content of the Armstrong declaration exceeds or is different from the content of the Farny declaration?

MR. GREENE: If I understand you correctly, Judge, I don't -- in my own words, I don't want you to rely only on the Farny declaration and throw out what Armstrong says to counter-balance it, but if you look at them both with respect to -- as to one another, that's fine.

THE COURT: The objection is sustained for the material in the Armstrong declaration that is objected to; it is not premised on an adequate foundation. Go ahead.

MR. WILSON: The next objection is to -- it begins on Page 8, Line 18. It is to Paragraphs 13, 14, 15 and 16, in their entirety, on the grounds that they constitute hearsay statements made by Mr. Armstrong's attorney, Mr. Flynn.

THE COURT: Counsel for defendant?

MR. GREENE: Goes to Armstrong's state of mind in entering into the agreement which is at issue here.

THE COURT: All purported statements made by Flynn to Armstrong and by Armstrong to Flynn contained in the objected-to paragraphs are stricken; that is, the objections to those materials are sustained. Go ahead.

MR. WILSON: Thank you, Your Honor. Paragraph -- on Page 12, Paragraph 19 continues; as the first sentence, it says: "The organization continued its fair-game campaign against me," et cetera. Against the -- against me in violation of the spirit and letter of the settlement agreement. Lack of adequate personal knowledge, foundation, and also it's a legal conclusion as to whether it's in violation of the letter of the agreement.

MR. GREENE: Would you repeat your objections then, please.

THE COURT: Page 12, Lines 5 through -- to 7, beginning with the words, "Following the December 1986" and ending with the words "Letter of this settlement agreement."

MR. GREENE: Okay.

MR. WILSON: And the objection is, no adequate foundation of personal knowledge and it's a legal conclusion.

MR. GREENE: As to no foundation, I think the foundation is set forth hereafter in Paragraph 20 --

THE COURT: In other words, nothing -- that sentence does not refer to anything except what is in the remainder of Paragraph 19 and Paragraph 20, correct?

MR. GREENE: Twenty -- in addition, Your Honor, Paragraphs 21, 22, 23 --

THE COURT: So that sentence does not refer to anything except what's contained in the remainder of Paragraphs 19 and then Paragraphs 20 to 23, correct?

MR. GREENE: Yes.

THE COURT: I'll strike the first sentence, but I -- on the assertion that Mr. Greene has made. Go ahead.

MR. GREENE: Your Honor, may Mr. Morantz be excused for a couple of moments?

THE COURT: Certainly. Go ahead.

MR. WILSON: Paragraph 20 purports to list the violations of the settlement agreement. Again, that's a legal conclusion.

THE COURT: The objection is overruled.

MR. WILSON: Thank you. Paragraph 21 refers to a telephone call from a purported "London Sunday Times" newspaper who made a statement to Mr. Armstrong; that's hearsay.

THE COURT: Counsel for defendant?

MR. GREENE: It goes to Mr. Armstrong's state of mind and his understanding.

THE COURT: The objection is sustained.

MR. WILSON: Your Honor, I would like to separately go through the -- object to the exhibits. I think we've already taken care of the first exhibit, which is the --

THE COURT: Does that dispose of everything in connection with this Armstrong declaration --

MR. WILSON: Yes, but not the exhibits to it.

THE COURT: -- of March 16, 1992?

MR. WILSON: Yes, but not the exhibits to it.

THE COURT: Go ahead and deal with them any way you want, and I'll just rule on them.

MR. WILSON: The first exhibit, which is, I believe, I think it's Exhibit A, but it's not marked. Lack of foundation. And also relevance; it's a 1966 document.

THE COURT: What is it that you're talking about, now?

MR. WILSON: Your Honor -- I was going into the exhibits to the Armstrong declaration which appears two places; however, those exhibits do not appear in the place in the record that we're at now. Mr. Greene listed it twice, and the second time he listed it is where he listed all the exhibits. And we can deal with those now or we can wait until they come up again later.

THE COURT: I think probably you might as well wait till they come up.

MR. WILSON: Okay. That's fine.

THE COURT: How much more time are you going to take in making objections?

MR. WILSON: I'm not sure, Your Honor. I'm going to try to -- perhaps if we could have a ten-minute recess --

THE COURT: Counsel, you've had a three-day recess and then a -- a one-and-a-half-hour recess. And you and Mr. Greene have known perfectly well what was going on here. And you have proceeded in the way that you have proceeded. And what I'm interested in knowing is, what further activity you have for me to do before I submit the matter. And what's your answer to that?

MR. WILSON: My answer is I'm not sure --

THE COURT: Assuming that we eventually get the evidentiary record settled, how long do you think you'd like to argue?

MR. WILSON: Oh. Five, perhaps ten minutes.

THE COURT: How about you?

MR. GREENE: Fifteen or twenty minutes.

THE COURT: Okay. You'll each argue for ten minutes. Go ahead.

MR. WILSON: That will be fine. Item 21 is Exhibit S, entitled "On Control and Lying." It's unauthenticated and irrelevant.

THE COURT: Is there any dispute regarding the actual authenticity of this?

MR. WILSON: Yes.

THE COURT: There is?

MR. WILSON: Yes. It's not our document.

THE COURT: All right. Mr. Greene?

MR. GREENE: Your Honor, this document was an exhibit in the Yanny proceedings --

THE COURT: No, but I don't want you to -- I don't want you to act as if you're testifying; you don't know what you're talking about, either, and nobody knows what anybody's talking about except insofar as you have some record citation-pardon me -- to corroborate document or found what you say. Do you have such a thing, or not? If so --

MR. GREENE: Your Honor, I do not.

THE COURT: -- if so, refer to it; if not, let me know that.

MR. GREENE: I do not.

THE COURT: All right. The objection is sustained. Go ahead.

MR. WILSON: Okay. Next is Item 24, it's Exhibit CC to Mr. Berry's declaration --

THE COURT: Just a second. Exhibit CC to the Berry declaration? Just a second. Is that bound in a separate packet?

MR. WILSON: I don't think so.

MR. GREENE: It's big enough to be, Your Honor.

THE COURT: What's -- I'm sorry. What's your objection going to be, defense -- plaintiff?

MR. WILSON: It's irrelevant; it's a stipulation of evidence in a case involving Mary Sue Hubbard and has absolutely no relevance to this proceeding.

THE COURT: Plaintiff? Plaintiff's objection is irrelevant, and defendant, your position is what?

MR. GREENE: That it is relevant because it pertains to activities during Armstrong's tenure in Scientology and that it is illustrative of the kind of material --

THE COURT: Let me have it, then. I -- let me have Exhibit CC to the Berry declaration, Ms. Cervantes; it's not up here on the Bench. Or if one of you lawyers can get it for me, that's just fine.

MR. GREENE: Yes, Your Honor.

THE COURT: You can give it to Ms. Cervantes.

MR. WILSON: Your Honor, you can -- we have a copy here.

THE COURT: Is the document you're talking about the document that goes on for what looks like 280-some-odd pages?

MR. WILSON: Yes.

THE COURT: And your theory about the relevancy of that is what, Counsel for plaintiff?

MR. GREENE: Is that --

THE COURT: Or for defendant, I mean?

MR. GREENE: Our theory is that the reason it's relevant is that it goes to show the conduct of the Scientology organization during the period of time that Armstrong was a member, and is illustrative of Scientology's activities and why they have settlement agreements such as this which they're asking you to enforce.

THE COURT: Where does it show that?

MR. GREENE: There is nothing in that stipulation of evidence that talks about settlement agreement, Your Honor. What I'm saying is that that stipulation of evidence in that criminal prosecution involving Scientology organization illustrates why it is that the agreement which it's asking this Court to enforce is a violation of public policy.

THE COURT: Where? Where does it show that?

MR. GREENE: Throughout that entire stipulation it documents by stipulation pursuant to guilty pleas criminal conduct engaged in by agents of the organization.

THE COURT: Where? Make a reference and tell me what argument is makeable from this.

MR. GREENE: Armstrong is -- was not supposed to discuss any of this, as part of what the settlement agreement is in this case.

THE COURT: So what's the point? You tell me what it is that you maintain --

MR. GREENE: The point is is that the Scientology organization's highest officials pled guilty to stealing governmental documents, to obstructing justice, to lying to governmental agencies. Armstrong has knowledge of that and is not supposed to talk about it.

THE COURT: He has knowledge about it from having read this document?

MR. GREENE: From having read that document and from his own first-hand intimate familiarity with Scientology's covert and intelligence operations, as found at the end of Judge Breckenridge's decision.

THE COURT: Your theory?

MR. WILSON: That was not stipulated to, and this client was not part of that, and on Mr. Greene's theory, then any --

THE COURT: What do you mean when you say this client was not part of it?

MR. WILSON: This --

THE COURT: You mean it was stipulated to by --

MR. WILSON: It was not stipulated to by anybody.

THE COURT: Oh, wasn't it, really? It's not a stipulation? I had understood that it was.

MR. WILSON: None of the defendants.

THE COURT: I had understood that it was a stipulation.

MR. WILSON: It's my understanding that it was offered by the government as a stipulation, but not stipulated to. And also, Your Honor, on Mr. Greene's --

THE COURT: Really? I have it -- am I mistaken that it was stipulated to by Mr. Buden on behalf of Defendant Mary Sue Hubbard and Mr. Hertzberg on behalf of her and Ms. Hubbard on behalf of herself, and --

MR. WILSON: Not as to the truth of the evidence. Just -- that was what the government would show if the government put a case on.

MR. GREENE: And that stipulation, I believe it's reflected in there, was part of the agreement wherein the government accepted guilty pleas --

THE COURT: Why should there be any doubt about it? Is there a foundation that shows anything? Does anybody give any explanation for what it is; how it was reached; what its foundation was?

MR. WILSON: No.

THE COURT: Does that appear anywhere in the record, Mr. Greene?

MR. GREENE: It's the subject -- or it's mentioned in a federal appellate court decision, but in this record, before this Court, in terms of -- none of us were involved in that action and don't have personal knowledge, no, sir.

THE COURT: The objection is sustained. Go ahead with whatever else you're going to do.

MR. WILSON: Thank you, Your Honor. Next, there's a number of items which I would like to lump together in the same objection, and it's basically relevance, and it's items--

and hearsay -- and it's Items 26 through 32; they're all from Mr. Berry's declaration. The first three, 26, 27 and -- I'm sorry, 26 and 27 -- are pieces from a book called "A Piece of Blue Sky"; they're hearsay; they're not authenticated --

THE COURT: They're -- that's attached to the Graham Berry declaration?

MR. WILSON: Yes, sir.

THE COURT: As what?

MR. WILSON: As Exhibit F and G.

THE COURT: F and G? Well, no; Exhibit F is the partial transcript of August 6, 1991 proceedings before Judge Karvass (phonetic).

MR. GREENE: It's -- Your Honor, we're talking about a different declaration, if I may clarify. This is the Berry declaration of March 16, 1992 --

THE COURT: Do you have that --

MR. GREENE: -- with a Marin County caption.

THE COURT: Help me get that, Ms. Cervantes. I Beg your pardon? State again what we're looking for, Counsel.

MR. GREENE: We're looking for the declaration of Graham Berry dated -- I think filed on March 16th, 1992, while the matter still had the Marin County caption.

(Pause)

MR. GREENE: Perhaps the Court -- Your Honor could expedite it if I gave you my copy.

THE COURT: You can do that if you'd like.

MR. GREENE: I have it if you want it.

THE COURT: You can do that if you'd like.

(Pause)

THE COURT: Tell me what you're objecting to, Mr. Wilson

MR. WILSON: Okay. The Exhibit F, "A Piece of Blue Sky"; Exhibit G --

THE COURT: Exhibit F?

MR. WILSON: Right. That's the Berry declaration of March 16th.

THE COURT: The basis for the objection?

MR. WILSON: It's unauthenticated, hearsay, and irrelevant.

THE COURT: Defendant?

MR. GREENE: Just a second, Your Honor. One, the purpose that it's being submitted is not for the truth of anything stated therein. It is -- in order to show that the Scientology organization is a valid and extant subject of intense public controversy. For that reason, it is relevant because part of what the effect of enforcing the settlement agreement would be would be to stifle and silence any contribution Armstrong could make to that controversy.

THE COURT: Are you prepared to stipulate to the purpose for which counsel says that it's being offered?

MR. WILSON: Give me a minute, Your Honor. We'll stipulate that the Church of Scientology is a subject of intense scrutiny by the press, but all of this -- but -- but I will not stipulate to admitting all this evidence just because --

THE COURT: Just a second.

MR. WILSON: -- that's what it's offered for.

THE COURT: Does that stipulation accomplish what you think you're trying to prove?

MR. WILSON: Not quite, Your Honor, because where --

THE COURT: All right. That's fine. No, you don't have to give any reasons. The objection is sustained.

MR. WILSON: The same objection is to --

THE COURT: Now, that's an objection to No. 26?

MR. WILSON: Right. 27 is --

THE COURT: 27.

MR. WILSON: 28.

THE COURT: 28.

MR. WILSON: 29.

THE COURT: Just a second. 29.

MR. GREENE: With respect to those other items, Your Honor --

THE COURT: Just a second, Counsel.

MR. GREENE: Yes, sir.

(Pause)

THE COURT: Yes; I intend to sustain the objections to Items 26, 27, 28 and 29.

MR. WILSON: 30 is the same.

THE COURT: 30, I intend to sustain the objection.

MR. GREENE: That would be to items --

MR. WILSON: And 31 as well.

THE COURT: Just a second.

MR. WILSON: I'm sorry; I take that back.

THE COURT: 31 is something called Project Quaker.

MR. WILSON: I misspoke, Your Honor. I have it here.

THE COURT: All right. Go ahead.

MR. GREENE: With respect to the other items on --

THE COURT: There's really nothing pending right now, Mr. Greene. I've sustained objections to --

MR. GREENE: Yes, Your Honor.

THE COURT: -- 26 through 30.

MR. GREENE: And those are the items having to do with any -- with the books or the newspaper articles?

THE COURT: It begins with "A Piece of Blue Sky" and it ends with "A Piece of Blue Sky."

MR. GREENE: Right.

THE COURT: And in the middle it's got a couple of newspaper articles.

(Pause)

THE COURT: Will you be able to make your next objection?

MR. WILSON: Yes, I'm sorry, Your Honor.

THE COURT: Please go ahead.

MR. WILSON: Next, 31, Project Quaker, is unauthenticated. It's not our document.

THE COURT: Okay, there's an objection. Defendant, do you have anything to say concerning that?

MR. GREENE: No, Your Honor.

THE COURT: Exhibit V. So you're in effect --

MR. GREENE: We concede that, Your Honor.

THE COURT: -- conceding, yes. Okay. Exhibit 31, a five-page document entitled "Project Quaker," objection is sustained.

MR. WILSON: The same for Exhibit 32.

THE COURT: Just a second. Do you take the same position regarding it, Counsel for plaintiff?

MR. GREENE: No, we don't, Your Honor.

THE COURT: Wait a minute. Counsel for plaintiff.

MR. GREENE: Oh, I'm sorry.

THE COURT: Do you take the same position regarding it?

MR. WILSON: Yes, sir.

THE COURT: Okay. Just a minute. All right, go ahead, Counsel for defendant. What do you want to say about this?

MR. GREENE: That falls within the scope of Judge Breckenridge's decision.

THE COURT: Page and line?

MR. GREENE: Just a moment, Your Honor.

(Pause)

MR. GREENE: Yes, Your Honor. Page 13, Lines 11 through 22.

(Pause)

MR. WILSON: Excuse me, counsel, is that Page 13, line 11 through 22?

MR. GREENE:

Yes.

THE COURT: I don't have a Page 13. Do you mean in the appendix portion?

MR. GREENE: Yes, I do, Your Honor.

THE COURT: There is a Page 13 in the appendix portion. Eleven through 22. Just a second. How does that deal with or provide a foundation for this otherwise unexplained document?

MR. GREENE: It tracks the precise language in the document that's under consideration, namely, that a suppressive person may be, quote, "tricked, cheated, lied to, sued or destroyed." Close quote. And it's also referred to in the --

THE COURT: I don't --

MR. GREENE: -- appellate affirmation of Judge Breckenridge's decision. That's at 232 Cal Ap 3rd 1060.

THE COURT: Yes, but I don't see it as saying that. "Tricked, cheated, lied to, sued or destroyed." That's the language Judge Breckenridge uses.

MR. GREENE: Right.

THE COURT: That language does not appear in this Exhibit No. 31; there's different lang -- Exhibit 32 -- there's different language that appears in Exhibit 32.

MR. GREENE: Maybe I'm not tracking. Is that -- you're looking at the exhibit that says "penalties for lower conditions," right?

THE COURT: Yes, I'm looking at your client's submittal No. 32, which is Exhibit W to the declaration --

MR. GREENE: Right. And --

THE COURT: And the question that is raised is whether or not this is authentic. And the contention that

(Pause)

THE COURT: Counsel for defendant?

MR. GREENE: That is conceded, Your Honor.

THE COURT: Sustained.

MR. WILSON: Thank you, Your Honor. Next, Exhibit 35, entitled "Sanctuary Memo," the same objection. It's Unauthenticated.

THE COURT: Exhibit 35?

MR. WILSON: I'm sorry. It's "Sentencing Memorandum." I misread mine. It's irrelevant. It's also --

THE COURT: Counsel for defendant?

MR. GREENE: That's conceded, Your Honor.

THE COURT: Conceded. Sustained.

MR. WILSON: The next is No. 36. It is unauthenticated hearsay.

THE COURT: Just a second. Counsel for defendant?

(Pause)

MR. GREENE: For these proceedings, it's conceded.

THE COURT: Sustained.

MR. WILSON: Thank you. Next, Your Honor, I can do as a group. Mr. -- the declarations of Mr. Armstrong that are Nos. 38 through 45, on the basis of relevance. And with the exception -- Your Honor, I'm sorry -- of Exhibit 44.

THE COURT: Which you don't object to, right?

MR. WILSON: Which we don't object to.

THE COURT: All right.

MR. WILSON: But the other ones are --

THE COURT: Where is the -- where is that Armstrong declaration?

MR. WILSON: Those are a separate bound brad. I think they're entitled "Declarations of Mr. Armstrong," and I think they were filed in the Marin County action.

THE COURT: Get them for me please, Ms. Cervantes.

(Pause)

THE COURT: Is that it? It's a thing, something called "Declarations of Gerald Armstrong," filed in support of amicus curiae brief of Joseph A. Yanny in opposition to plaintiff's order to show cause re preliminary injunction, filed March 17, 1992, in Marin County?

MR. WILSON: That's correct. And the objection being that the declarations, except for the December 3 declaration, all those declarations predate the filing of this litigation; No. 38 is March 19 of '86; 39 is also an '86 declaration; 40 is an '83 declaration; 41 is an '86 declaration, as is 42; 43 is from March of '90; and 45 is from 1985. To the extent that Mr. Armstrong had something to say, I think he said it all in his previous declaration that we went through, and I really hope not to have to go through those declarations as well.

THE COURT: Counsel for Armstrong?

MR. GREENE: All of those declarations, and each of them, are relevant; one, to show Armstrong's knowledge of the Scientology organization; and two, the conduct engaged in by the Scientology organization against Armstrong; three, provide the background information, what it is that the Scientology organization was seeking to remove from the public record in consequence of the agreement at issue here. For those reasons, each one of those declarations are relevant.

THE COURT: What are you talking about, the public record?

MR. GREENE: That those various declarations were filed in litigation that Mr. Flynn, as attorney for people who were suing Scientology in various different litigations. All of those declarations discuss --

THE COURT: The objections are overruled.

MR. WILSON: Thank you, Your Honor. The next, the declarations of Mr. Flynn -- 46, 47, 48 -- on the same basis. And also on the basis, Your Honor, that -- and I did not proffer this evidence; I will if necessary -- that we attempted to take the declaration of -- the deposition of Mr. Flynn twice by giving notice to defendants, tried to have them stipulate to it; they refused.

That's all described in Ms. Bartilson's declaration, and defendants successfully have prevented that by the filing of a motion to quash. The grounds for that motion to quash is that proper notice wasn't given in terms of the number of days, and the date that notice was given was the day of the riots, which is why personal service could not be made. And on that basis as well, we believe that they should be estopped from asserting those -- from offering those declarations.

THE COURT: Why? You want to take his deposition to do what; contradict the material contained in the declarations?

MR. WILSON: Those declarations, and also the statements that Mr. Armstrong made in his declaration that was submitted as to what Mr. Flynn told him and the fact that he--

THE COURT: But I've excluded that material. I don't care what somebody says his lawyer told him.

MR. WILSON: Well, in that case --

THE COURT: You want to object to the Flynn declarations, or don't you?

MR. WILSON: Yes, on the basis of relevance.

MR. GREENE: The reason that they're relevant, Your Honor, is because they -- the Flynn declarations --

THE COURT: You'd better get them for me, Ms. Cervantes. Declarations of Michael J. Flynn, filed in support of the amicus brief of Yanny in Marin County, September 21, 1983; is that right? Or 1988?

MR. GREENE: 1983 is the first declaration.

THE COURT: All right. Where would that be?

MR. GREENE: That would have been filed March 16, '92 -- or 16, '92, in Marin County. And that's a separate bundle.

THE COURT: Irrespective of how I rule -- while Ms. Cervantes is getting this material -- irrespective of how I rule, when would you be ready to try this case, assuming that it survives all the attacks on it?

MR. WILSON: Probably six to nine months or for --

THE COURT: To whom is it assigned in the I.C. system?

MR. WILSON: Judge Horowitz.

THE COURT: Who?

MS. BARTILSON: Judge Horowitz.

MR. WILSON: Perhaps sooner than that, Your Honor. We haven't been successful in getting anybody's deposition yet.

THE COURT: Whose deposition do you want to take besides Armstrong?

MR. WILSON: Well, we've noticed Mr. Armstrong's deposition three times.

THE COURT: And?

MR. WILSON: Hasn't shown up at all. And if you'd like me to give you the letters --

THE COURT: Not interested at all. You just do whatever you need to do to litigate your case.

(Pause)

THE COURT: Can you describe the thing that the objection is being made to more fully, Counsel, so that --

MR. WILSON: Yes, Your Honor.

THE COURT: -- there's no doubt about exactly what documents you're trying to attack?

MR. WILSON: It's -- I just had them in front of me a minute ago, Your Honor, I'm sorry. Declarations of Michael J. Flynn as filed in support of amicus curiae brief of Joseph A. Yanny in opposition to plaintiff's order to show cause re preliminary injunction, Marin County action. And there's three of them. They're --

THE COURT: Are they all under the same cover sheet?

MR. WILSON: Yeah, I think they are. A, B, and C.

MR. GREENE: Yes, they are.

(Pause)

THE COURT: Thank you. Go ahead. Tell me what your objections are.

MR. WILSON: Relevance. They're well before the time period at issue here, and unlike arguing Mr. Armstrong's declaration, they don't go to show what Mr. Armstrong knew except through hearsay of Mr. Flynn or anything that I can conceivably see is relevant to this action.

THE COURT: Counsel for defendant?

MR. GREENE: The reason -- first of all, the first one is a declaration that was filed in Armstrong I; it was part of the record there. Two --

THE COURT: So what? The question is whether it's relevant in this case.

MR. GREENE: Okay. The reason so what is because the declarations describe the extraordinary --

THE COURT: Where? Just tell me page and line rather than characterizing them or putting your gloss on them. Just say what language in it you think it pertinent to some issue in this case that I'm going to have to adjudicate.

MR. GREENE: Yes, Your Honor. The entirety of the affidavit in Armstrong I, describing what Flynn --

THE COURT: Where? What page and line? You mean that he's a Massachusetts lawyer, and that he works in Massachusetts and that he makes this affidavit to assist the Court in understanding, quote, "the general and specific contexts of Scientology's purpose and intent in bringing this latest harassive legal proceeding against me and specifically in support of my opposition to this latest contempt charge", end quote? You mean that's going to be pertinent in the case, and--

MR. GREENE: Yes.

THE COURT: Oh, really? How?

MR. GREENE: Because it goes to the issue of unclean hands, and it goes to the issue of what the context -- factual context of the settlement agreement is.

THE COURT: Do you mean the argumentative assertion made by this declarant on the 21st of September, 1983, pertains to the unclean hands of any party in this case, pertinent to this motion?

MR. GREENE: The factual elucidation following that, yes. If you were to look at that --

THE COURT: I'll strike all three declarations on the grounds of relevancy and on the grounds of evidence code 352. The declarations are so prolix and so laced with argumentative and conclusory material as to require -- and material which very, very substantially predates the pertinent details of the instant case as to require both the undue consumption of time and the creation of substantial danger of undue prejudice and confusion of the issues, and misleading the fact-finder. Go right ahead, Counsel for plaintiff.

MR. WILSON: Thank you, Your Honor. Next is 49, which is Declaration of Vickie Aznaran of 9 August of '88. That's Exhibit I-A. On the basis of relevance. It's a declaration of Vickie Aznaran; it doesn't mention Gerald Armstrong and has nothing to do with him.

THE COURT: This was evidence in support of defendant's opposition to Scientology's motion for preliminary injunction; that's what I have as 49.

MR. WILSON: Yeah, and then the specific -- what I have as 49 is -- then the specific thing under that is Exhibit I-A, which is the declaration of Vickie Aznaran. And I have as 50, just so that we can keep it straight, I-B, which is the Armstrong I Complaint.

THE COURT: Yes. Well, it's at this point that we got slightly out of phase. I have that -- I think your numbering is better than my numbering, but I call everything one number more than you do, from here on out --

MR. WILSON: Okay. Well, then, I'll --

THE COURT: -- from the midmorning recess out. But what's your objection to the Aznaran declaration?

MR. WILSON: Relevance. It's -- Aznaran's declaration doesn't mention Mr. Armstrong; it really has nothing to do with him. And also 352.

THE COURT: What's your theory, Counsel for defendant?

MR. GREENE: Just getting my file back here in a second, Your Honor. The theory is that Vickie Aznaran was the president of RTC, was very high in the chain of command. In that declaration I believe she talks about what the litigation strategies are, employed by the Scientology organization; how she personally destroyed documents in Armstrong I that Judge Breckenridge had ordered produced, and the reason --

THE COURT: Make -- make a reference to page and line, then, if you think you've got something that you think is going to be pertinent to the issues.

MR. GREENE: Okay.

(Pause)

MR. GREENE: Yes, Your Honor. To --

THE COURT: Page and line, and then let me see it, or Ms. Cervantes, maybe you can find this material that they're talking about here so that Mr. Greene and I can look on the same piece of paper at once.

MR. GREENE: The page number appears to have been renumbered, and it's -- it's -- at the bottom of the page it says 41; it's not Page 41 of the declaration. It's Page 5. The paragraph is 12. Lines 6 through 18.

THE COURT: So it's -- the citation is either 5, 6 through 18, or 41, 6 through 18, depending on which numbering scheme we use, right?

MR. GREENE: Yeah, and the 5 is covered over by the 41.

THE COURT: Let's take a look at it.

MR. GREENE: All right. This is the document that's entitled "Evidence in Support of Defendant's Opposition to Scientology's Motion for Preliminary Injunction," filed March 16th, '92, in Marin County, Volume I.

(Pause)

THE COURT: I'm sorry, I can't find the page reference that you give at all in the material that was filed on the 16th of March, 1992. Could you be more specific about it?

MR. GREENE: Sure. Let's start at Exhibit A, which is hiding directly behind Exhibit 1 at the very front.

THE COURT: Yes, sir.

MR. GREENE: Okay. And then there -- the first page after -- behind the face page, it says "Declaration of Vickie Aznaran"?

THE COURT: That's not really what it says; it says opposition to motion to disqualify plaintiff's counsel.

MR. GREENE: Oh, you're right. I'm sorry. You're absolutely right. There's that face page, then the next page says "Declaration of Vickie Aznaran"?

THE COURT: Yes, sir.

MR. GREENE: And at the bottom it says 37?

THE COURT: Yes, sir.

MR. GREENE: In handwriting. So if we go to 41 following. Lines 6 through 18 specifically address _Armstrong I_.

THE COURT: Just a second.

(Pause)

THE COURT: So in other words, this person is admitting in this declaration at this portion to the commission of a felony?

MR. GREENE: Yes, Your Honor. It appears that way.

THE COURT: And I'm supposed to believe her?

MR. GREENE: Yes, Your Honor.

THE COURT: I'm supposed to believe that she -- she says she committed a felony by in effect doctoring evidence and I'm supposed to believe that evidence; that's your theory.

Right?

MR. GREENE: Particular -- yes, it is. Particularly in light of the --

THE COURT: All right. What's your theory?

MR. WILSON: My -- it's not a theory. I don't see the relevance to this -- to this case. This is something --

THE COURT: What is the relevance to this case?

MR. GREENE: The relevance to this case is that what Vickie Aznaran admitted doing, destroying documents, is the same thing that Scientology seeks to accomplish by using the judicial system in this very proceeding.

THE COURT: Oh, well on that basis, I'll exclude it. If that's your theory. The objection is sustained.

MR. WILSON: Thank you, Your Honor. 54, Your Honor, which I think you might have as 55, which is the cross-complaint?

THE COURT: Yes.

MR. WILSON: Should be excluded on the same basis that you previously excluded the Third Amended Cross-Complaint, which I think you probably have as 56.

THE COURT: Wouldn't that be your theory, too, Mr. Ford, that if I've excluded exhibit -- if I've excluded the Third Amended Cross-Complaint, I should exclude the original Cross-Complaint too, right?

MR. GREENE: No, Your Honor. My -- theory would be that, as to the Third Amended -- the exhibit to the Third Amended Cross-Complaint, to ask you to reconsider your exclusion.

THE COURT: I understand. The objection is sustained as to the original Cross-Complaint and I reaffirm my ruling as to the Third Amended Cross-Complaint. Go ahead.

MR. WILSON: Number 67, which I think you have as 68, an unpublished Court of Appeal opinion. I think that's in Aznaran --

THE COURT: No; that was in Armstrong I.

MR. WILSON: I'm sorry, Armstrong I. Armstrong I, on the basis that if it's for precedent, it's unpublished; if it's -- it can't be for evidence.

THE COURT: Why not?

MR. WILSON: It has no tendency to prove any of the matters. There's no findings made in it.

THE COURT: Well, let's just take a look at 987, California Rules of Court. That citation is mistaken; it should be -- What's your theory, defense counsel?

MR. GREENE: The theory is, one, is that it shows the history of the litigation in Armstrong I, but more important, what there -- and the reason that it has evidentiary -- more evidentiary value is because after this unpublished decision, there was further appellate litigation. And Paragraphs 4-A and B of the settlement agreement require, by their express terms, Armstrong not to oppose any litigation in the Court of Appeal of the decision of Judge Breckenridge. So those matters are directly relevant to the --

THE COURT: Make the reference you're referring or you're talking about to the -- pardon me -- to the agreement so that I can see what it is that you're talking about.

(Pause)

MR. GREENE: Okay. Referencing --

THE COURT: Let's go to the agreement first.

MR. GREENE: Yes, sir, we're looking at the agreement. And on Page 3 --

THE COURT: Isn't the agreement in this packet of papers? No, I guess it isn't. Where -- where would I find the agreement in these various papers? It pops up in two or three places.

MR. WILSON: You would find it attached to the Complaint.

THE COURT: Whre else?

MR. GREENE: It's also attached as Exhibit A to Mr. Berry's declaration in this Court, filed May 8th.

THE COURT: Okay. And page and line? In that agreement?

MR. GREENE: Yes. Page 4, Paragraph A and Paragraph B. Finishing on the top of Page 5.

(Pause)

THE COURT: Why do I have to know anything about what happened in Case No. B005912 in the Court of Appeal? There is no contention that anything concerning that case has been violated by Armstrong and that's not one of the issues before me in the application for preliminary injunction.

MR. GREENE: The issue, from the defense perspective, is that what plaintiff is asking the Court to enforce is part of a package, the overall purpose of which is to obstruct justice by suppressing evidence. The provisions of the settlement agreement which relate to litigating Judge Breckenridge's decision on appeal give meaning to that.

THE COURT: What do you mean?

MR. GREENE: What I mean is that the meaning that's provided is that -- the purpose of the settlement was to eliminate -- in part was to eliminate the Breckenridge decision in anything that had -- was related to Breckenridge's decision. And so, taking an appeal of Breckenridge's decision and having it as part of the settlement agreement, a promise not to oppose the appeal, casts an unmistakable gloss on the provisions that plaintiff is asking the Court now to enforce.

THE COURT: What are you talking about? Where do you think that -- in other words, you're saying that Armstrong agreed, in effect, to take a dive in the appeal?

MR. GREENE: Right. That's --

THE COURT: Where does it say that?

MR. GREENE: Doesn't say to take a dive, but it sure says that in -- in fancy English on Page 4, Paragraph B, finishing on Page 5.

THE COURT: Show me where.

MR. GREENE: Okay. Five lines up from the bottom of 4.

THE COURT: Yeah.

MR. GREENE: The sentence starting -- or actually, one up. "This appeal shall be maintained notwithstanding this agreement."

THE COURT: The appellant was the other side, right, was Scientology, right?

MR. GREENE: Plaintiff here, correct.

THE COURT: No. The appellant was Scientology.

MR. GREENE: Right. The appellant was Scientology.

THE COURT: Yes. Go ahead.

MR. GREENE: Okay. Plaintiff is Armstrong. Cross-complainant --

THE COURT: Yes.

MR. GREENE: -- here in the settlement agreement.

READING:

"Plaintiff agrees to waive any rights he may have to take any further appeals from any decision eventually reached by the Court of Appeal, or any rights he may have to oppose [paren] (by responding brief or any other means) [close paren] any further appeals taken by the Church of Scientology of California. The Church of Scientology of California shall have the right to file any further appeals it deems necessary."

MR. GREENE: That's dive language, Your Honor.

THE COURT: Well, it doesn't con -- it doesn't affect what happens in the Court of Appeal; it affects only what happens after disposition by the Court of Appeal; does it not?

MR. GREENE: But that's why -- that's why the --

THE COURT: Is the answer to that question "yes"?

MR. GREENE: The answer is that it does affect. That this language does affect what happens in the Court of Appeal, and that's why the exhibit where we started from is relevant. Because --

THE COURT: Wait a minute. I think we have --

MR. GREENE: -- appellate opinion --

THE COURT: -- I think we have a threshold issue, then, that we ought to really ventilate now. The -- the following sentence seems to me to refer to events that would occur after decision by the Court of Appeal; it's the sentence that begins,

READING:

> "Plaintiff agrees to waive any rights he may have to take any further appeals from any decision eventually reached by the Court of Appeal or any rights he may have to oppose,"

and so forth. That refers only to events that occur after decision by the Court of Appeal, right?

In the first place, you have a problem: it's -- it's -- it's drafted as though whoever drafted it didn't understand the litigation process, right?

MR. GREENE: No, Your Honor, it's precisely the opposite. They understood it completely, and if I could just fill the Court in a little bit --

THE COURT: They must not have understood it because there is no appeal from a decision of the Court of Appeal.

MR. GREENE: Well, yeah, that's -- I mean, when you petition the California Supreme Court for review.

THE COURT: That's the opposite of an appeal.

MR. GREENE: That's --

THE COURT: That's a petition for review.

MR. GREENE: -- that's a petition for review, but it's an appeal as to the decision of the lower court.

THE COURT: But it's not an appeal at all; it's a petition for review. "Appeal" is a word that refers to review by an appellate court as a matter of right. But there is no appeal from a decision -- from this decision, at least -- of the California Court of Appeal. The only method of review intrinsic to the California courts would be, as to this particular decision, given all the factual context of the decision, by petition for review to the California Supreme Court, right?

MR. GREENE: That's the mechanism for --

THE COURT: So whoever wrote this must not have understood the mechanism of review of determinations of intermediate appellate courts, correct?

MR. GREENE: If the person that wrote it is held to a hypertechnical use of language, yes. What I want to call the Court's attention to is that in this case there were two appeals --

THE COURT: All right. All right. Let's --

MR. GREENE: -- there were two appeals --

THE COURT: Just a second. Let's deal with -- let's deal with that for just a moment. When this agreement was written, did it or did it not require that the -- that Armstrong withdraw any opposition that he had to the appeal of the Church of Scientology of California?

MR. GREENE: There is nothing on the face of the agreement which says Mr. Armstrong, you are required to withdraw.

THE COURT: So the only thing that he was obligating himself to do is not to oppose any post-determination by the Court of Appeal steps that the Church of Scientology would take, right?

MR. GREENE: Yeah.

THE COURT: Mr. Ford, are you --

MR. GREENE: Greene.

THE COURT: Isn't that correct?

MR. GREENE: Yes.

THE COURT: So it wasn't that he was withdrawing opposition or agreeing not to oppose the appeal that culminated in the decision of December 18, 1988 or 1989 or whenever it is; he was, rather, agreeing not to oppose some attack that the Church of Scientology would make on that decision, when, as, and if that decision came down, right?

MR. GREENE: Or -- yes.

THE COURT: All right.

MR. GREENE: Or on any further decision if the appeal of Scientology was rejected, which it was, as moot.

THE COURT: Yes. And then what is it that you want me to understand by looking at this decision?

MR. GREENE: What I want you to understand by looking at that decision is that that decision was handed down saying, Scientology, your appeal is premature because there's a pending cross-complaint. Thereafter, the appeal was re-initiated, and at that point, these provisions had full force in effect. That's the point.

THE COURT: Where is the -- where is the evidence concerning the later appeal?

MR. GREENE: It's coming up. It's in the --

THE COURT: Can you answer my question, or would you rather not?

MR. GREENE: No, I would like to answer your question, I'm sorry --

THE COURT: Please do.

MR. GREENE: -- Your Honor; you're a vigorous questioner, and I'm doing my best to keep up. The answer, directly: the next in order, which is the 1-15-87 DCA -- DCA order denying rehearing. Then the next in order, the 3-11-87 Cal Supreme Court order denying review. Then the next in order, the unopposed motion by Scientology in the trial court to withdraw the memo -- memorandum of intended decision. Then the next in order which is -- is Y, would be I-Y on my labeling, the February 2, '87 minute order from Judge Breckenridge denying Scientology's unopposed motion to withdraw his memorandum of intended decision.

THE COURT: Uh-huh.

MR. GREENE: And the next in order is the second notice of appeal filed by Scientology in Armstrong I on February 9th of 1987.

THE COURT: Yes.

MR. GREENE: Then what we've got is -- is the appellate court's decision, which is published. And at 232 Cal Ap 3rd 1060, which I've not -- I mean, that's precedent for this Court. Thereafter, there's the California Supreme

Court denial of review of the second Armstrong appeal, said denial being filed on October 17th, 1991. Also, and then there's the remittitur in Armstrong I, and then there are the exhibits of the side agreement in Armstrong I.

THE COURT: Okay, I understand. Do you have any response you want to make to all that?

MR. WILSON: Well, Your Honor, we don't have objections to those other ones. Mr. -- you asked Mr. Greene what was the next thing that happened, and you'll note that what we're talking about now is an unpublished Court of Appeal opinion in December of 1990, and he said the next thing that happened, and then he referred to these 68, 69, 70 --

THE COURT: The objection is overruled.

MR. WILSON: Thank you, Your Honor.

THE COURT: Anything else?

MR. WILSON: 82.

THE COURT: 82?

MR. WILSON: 82, which I think you have as 83.

THE COURT: I-JJ, or I-LL?

MR. WILSON: LL.

THE COURT: All right. That's Senate bill --

MR. WILSON: Senate bill 711.

THE COURT: -- 711. Where is that, please?

MR. WILSON: That is in Volume --

MR. GREENE: That's Volume II.

MR. WILSON: -- II of -- of evidence in support of defendant's opposition to Scientology's motion for preliminary injunction.

THE COURT: All right. Ms. Cervantes, will you give me that one.

(Pause)

THE COURT: Some kind of a double -- okay.

Okay. I have that. Let me go to Exhibit LL. All right.

MR. WILSON: That's -- if it's offered -- first of all, I'm not sure what it's offered to do. But it would be my position that it's irrelevant to any factual matter that's at issue here. Now, if it's offered by Mr. Greene as some kind of precedent, then I don't believe it's -- he hasn't requested judicial notice and I don't believe it is a proper subject for a judicial notice. It's a bill -- it's not law -- if it was law, it could be cited as law. And it hasn't been passed.

THE COURT: Maybe he's -- maybe he's -- do you -- why do you offer it, Mr. Greene?

MR. GREENE: In order to show that there are very serious public policy concerns regarding the type of agreement which Scientology seeks to enforce here, insofar as --

THE COURT: How does this show that? This is a piece of legislation that was offered on the 6th of March, 1991. Has it ever been adopted?

MR. GREENE: No.

THE COURT: Is it still alive?

MR. GREENE: Yes.

THE COURT: So as of now, it's as-yet unsuccessful argument. So what -- how does it help your client at all? Or how does it help me at all?

MR. GREENE: Well, I think how it helps you, Your Honor, is that it provides specific language on a public policy basis why so-called gag agreements are a violation of public policy.

THE COURT: What specific language? This is just something that Senator Locke here introduced on the floor of the Senate, and it was amended apparently five times. And what you've given me is one of the -- iterations of it.

I'm going to overrule the objection. And you should recognize that during the course of your argument before me, which is going to be, now apparently, rather circumscribed in time, although you can deal with any points you'd like, that might not be a tremendously significant thing for you to argue about. Go ahead.

MR. WILSON: So the objection is overruled, Your Honor?

THE COURT: That's correct.

MR. WILSON: Next, the declaration which is 83, I believe; you probably have it as 84, MM, Declaration of Vickie Aznaran. Again, the declaration of Ms. Aznaran which is -- which doesn't mention Mr. Armstrong, which is in 1988, talking about things that happened in 1986, 1987 --

THE COURT: Your theory -- so your objection is relevancy?

MR. WILSON: Yes, Your Honor. And also 352 and --

THE COURT: Your theory?

MR. GREENE: Relevancy is that this shows the kind of conduct which Scientology sought to suppress Vickie Aznaran from expressing through its use of its motion for preliminary injunction in the Aznaran case. And that it parallels and is very close --

THE COURT: Should I make a ruling in it any different from the ruling I made in Exhibit 49 or 50, that is, the declaration dated August 9, 1988?

MR. GREENE: Yes, because I've given you a different reason, and I believe a valid reason, to do so.

THE COURT: Why?

MR. GREENE: Because Scientology sought, through its motion for preliminary injunction which is in evidence before us now, in the Aznaran case, to enforce a settlement agreement substantially identical to that which it is seeking this Court to enforce against Armstrong.

The information which Scientology wants to suppress is exemplified in the declaration that's before the Court. And I submit --

THE COURT: Where is that declaration?

MR. GREENE: That is in Volume II of Armstrong's evidence in Marin County, file-stamped March 16th, 1992.

THE COURT: Exhibit --

MR. GREENE: MM.

THE COURT: Exhibit double-M?

MR. GREENE: Yes.

THE COURT: All right. Just a second.

(Pause)

THE COURT: Where in particular?

MR. GREENE: Your Honor, the discussion is about fair game on Page 1; the discussion is about Rehabilitation Project Force on Pages 2, 3 and 4 --

THE COURT: Just a second.

(Pause)

THE COURT: State your theory, then, of admissibility.

MR. GREENE: My theory of admissibility is that this document exemplifies factual information which Scientology seeks to suppress or sought to suppress by injunction in Aznaran. And that that shows what Scientology is seeking to suppress here in Armstrong. What Armstrong says and what Vickie Aznaran says, although specific to themselves, is very similar.

THE COURT: The objection is sustained.

MR. WILSON: Thank you, Your Honor. And finally, I believe, there are two -- two exhibits to Mr. Armstrong's declaration that we did not handle with the declaration itself, and those are -- I think they're your Items 86 and 87; they would be Exhibit Roman II-A and Roman II-B.

THE COURT: Just a second.

(Pause)

THE COURT: Would you help me with locating the Armstrong declarations?

(Pause)

MR. WILSON: I think it's in the same packet you just had, Your Honor. In fact, it should be about a half inch lower down.

THE COURT: So it should have a face page that says what?

MR. WILSON: That -- if they're attached to Mr. Armstrong's declaration and there's a page in between the declaration that says Exhibit A in the lower left corner.

THE COURT: That might be, but what should be exhibit --

MR. WILSON: The first page of the exhibit --

THE COURT: -- what should the face page be?

MR. WILSON: Of the exhibit, Your Honor?

THE COURT: Yes. No, what's the face page --

MR. WILSON: Oh, you mean of the packet.

THE COURT: -- of the packet?

MR. WILSON: The packet is evidence in support of defendant's opposition to Scientology's motion for preliminary injunction, Volume Roman numeral II.

THE COURT: All right. I have that.

MR. WILSON: Okay. And it's -- it's about two-thirds of the way down.

THE COURT: What page is it?

MR. WILSON: Well, it's -- I wish I could tell you.

THE COURT: The page numbers are written on my copy.

MR. WILSON: I don't have page numbers. Are page numbers on all of your pages?

THE COURT: No.

MR. WILSON: Okay.

THE COURT: The person who prepared this -- I see what you mean. The person who prepared this was intermittent. Go ahead. Tell me where you want me to look. See if I can find it.

MR. WILSON: I'm trying. There's -- it appears right after a declaration of Gerald Armstrong -- of -- Gerald Armstrong. I'd be happy to hand my copy up to you. If you'd like.

MR. GREENE: Your Honor, we'll short-circuit this and concede the objection to both II-A and II-B.

THE COURT: Sustained.

MR. WILSON: Okay. That concludes our objections.

THE COURT: And there is no objection to Exhibit II-N, that would be No. 98? Okay.

MR. WILSON: No.

THE COURT: All of the other materials proffered by the defendant are received in evidence, subject only to the rulings on objections heretofore made.

Counsel, I'm going to go into recess now. I order you back here tomorrow morning at half past 8:00, ready to go forward with brief arguments on the merits that you think are disclosed by the materials that have been received into evidence. There will be no further submittal of evidence and no further submittal of written materials.

Visualize that your arguments are going to be concluded in relatively brief compass, and that I will submit your clients' case and rule on your clients' case following my consideration of your arguments. Thank you very much.

MR. GREENE: Your Honor, one housekeeping matter before you leave regarding your order to show cause?

THE COURT: Yes.

MR. GREENE: I don't know. I am scheduled to go out to trial --

THE COURT: If you have any problem, deal with it tomorrow. Figure out what your schedule is --

MR. GREENE: Okay. I just don't know what's going to happen, then, if I'm ordered to two courts, to be in different places, I'm going to be split in half. I just want to let you know that.

PROCEEDINGS CONCLUDED AT 4:00 P.M.

(Court is Adjourned)

* * * * * * * * * *

## CERTIFICATION

I (WE) CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE ELECTRONIC SOUND RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

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OWNER

Sharon Osboen
SIGNATURE OF TRANSCRIBER

1-5-93
DATE

Exhibit C

Superior Court of California
County of Los Angeles
Los Angeles, California

COPY

CHURCH OF SCIENTOLOGY, INTERNATIONAL, etc.

Plaintiff,

vs.

GERALD ARMSTRONG, ET AL.,

Defendant.

Docket No. BC 052-395

Los Angeles, California
May 27, 1992
8:30 a.m.

# MOTION FOR PRELIMINARY INJUNCTION

THE HONORABLE RONALD M. SOHIGIAN, PRESIDING

COURT RECORDER:

J.W. CRUSE

TRANSCRIPTION BY:

PARRIS TRANSCRIPTS
P.O. Box 41754
Los Angeles, CA 90041-9998
(213) 254-4157

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

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Pacific Palisades, California 90272
(213) 459-4745

PROCEEDINGS BEGIN AT 8:30 A.M.

(Court is Called to Order)

THE COURT: All right, we're back on the record in Scientology against Armstrong, BC-052395. The attorneys who were before the Court before the recess at the conclusion of yesterday's proceedings are before the Court again, each at counsel table. And of course that includes Mr. Berry who didn't sign in yesterday but who was here during most of the proceedings and is here now.

What I intend to have you do now is to make your arguments based on the evidence in the record. I intend to have the plaintiff open and close. And I intend to have the defendant argue by way of opposition. Any objection to that procedure?

MR. WILSON: No, Your Honor.

THE COURT: How about you, counsel. Any objection?

MR. GREENE: No. No, Your Honor.

THE COURT: Okay.

MR. WILSON: I have one question.

THE COURT: Sure.

MR. WILSON: Should I reserve part of the ten minutes you've allotted me for the close?

THE COURT: Yes. What I'm going to do is this. I'm going to deviate from two orders that I made yesterday, or management points that I made yesterday. The first is this.

I think that it will not be necessary for me to have you back again on the order to show cause, the thing that you were having problems on. Going through the evidence last night gives me the feeling that it would probably not be fruitful to conduct such a proceeding. And this morning. That's number one.

Number two; I'm going to give you more than the -- pardon me -- more than the period of -- would you pardon me for a second. Let me see if I can take an allergy pill. Pardon me. I'll do that in just a second. I'm going to give you more than the time that I had indicated so that to the extent that that additional time is of assistance to you you can utilize it.

I had had -- my exclusive concern is my commitment to other cases and to the interests of other litigants, all of which I have to watch out for. There has been sort of a double switch in my scheduling. I'm not going to be with you this afternoon, as you know. And one of the other matters that was of pressing significance will be one that I won't have to devote as much time to as I had thought.

If you'll wait for just a second, I'll be right back.

(Pause)

THE COURT: Is someone wearing cologne or perfume of any kind?

MR. WILSON: Not me.

THE COURT: Down here at this end of the table?

MR. GREENE: Yes. Some aftershave.

THE COURT: What's the brand.

MR. GREENE: Chanel.

THE COURT: Okay.

# PROOF OF SERVICE

STATE OF CALIFORNIA )
) ss.
COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On February 1, 1993, I served the foregoing document described as NOTICE OF MOTION AND MOTION IN LIMINE TO EXCLUDE EVIDENCE OF ALLEGED ACTIONS OF PLAINTIFFS OR OTHERS WHICH PREDATE THE ORDER VIOLATED BY ARMSTRONG on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] a true copy thereof in sealed envelopes addressed as follows:

PAUL MORANTZ **[HAND SERVE]**
P.O. Box 511
Pacific Palisades, CA 90272

[ ] BY MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[ ] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondece for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on _________, 1993, at Los Angeles, California.

[X] **(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on February 1, 1993, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

CAROL A. NELSON
Type or Print Name

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

# PROOF OF SERVICE

STATE OF CALIFORNIA )
) ss.
COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

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[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] a true copy thereof in sealed envelopes addressed as follows:

FORD GREENE **[FAX & MAIL]**
HUB Law Offices
711 Sir Francis Drake Boulevard
San Anselmo, CA 9490-1949

[X] BY MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondece for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on February 1, 1993, at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on ________, 1993, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Paul Bradford
Type or Print Name

Paul Bradford
Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

787

HUB LAW OFFICES
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Attorney for Defendant
GERALD ARMSTRONG

FILED
FEB 24 1993
AMES H. DEMPSEY, CL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MARIN

| | |
|---|---|
| CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation;<br>Plaintiffs,<br>vs.<br>GERALD ARMSTRONG; DOES 1 through 25, inclusive,<br>Defendants. | No. ~~152 229~~ BC 52395 157680<br>**DECLARATION OF GARRY L. SCARFF IN OPPOSITION TO ORDER TO SHOW CAUSE RE CONTEMPT**<br>Date: March 2, 1993<br>Time: 8:30 a.m.<br>Dept: 86<br>Trial Date: May 3, 1993<br>Discovery Cut Off: None Set<br>Motion Cut Off: None Set |

FILED
NOV 16 1994
HOWARD HANSON
MARIN COUN

ORIGINAL

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711 Sir Francis Drake Boulevard
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Telephone: (415) 258-0360

Attorney for Defendant
GERALD ARMSTRONG

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation;

Plaintiffs,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

No. BC 052395

**DECLARATION OF GARRY L. SCARFF IN SUPPORT OF OPPOSITION TO MOTION TO COMPEL**

Date: February 19, 1993
Time: 8:30 a.m.
Dept: 30

Trial Date: May 3, 1992
Discovery Cut-Off: None
Motion Cut-Off: None

GARRY L. SCARFF declares:

1. My name is GARRY L. SCARFF. I live at 2137 N.E. Weidler St., Portland, Oregon 97232. My telephone number is (503) 281-9088. I am above the age of eighteen years old and provide the following testimony of my own first-hand knowledge. I could and would provide the same testimony in open court were I required to do so.

2. From 1982 through August 1992, I was a member of the CHURCH OF SCIENTOLOGY. For the two years preceding 1992 I was an operative of SCIENTOLOGY in the Los Angeles area where I have

worked closely with EUGENE INGRAM, a licensed private investigator whose income is solely derived from SCIENTOLOGY.

3. EUGENE INGRAM, at the direction of SCIENTOLOGY, has attempted to ruin FORD GREENE on a personal and professional basis because of his activities on behalf of the Cult Awareness Network, his outspoken and public criticism of SCIENTOLOGY, his representation of former Scientologists, particularly Richard and Vicki Aznaran, and his current working relationship with GERALD ARMSTRONG, a former high-ranking Scientologist.

4. The operations against FORD GREENE are coordinated through the CHURCH OF SCIENTOLOGY INTERNATIONAL in Los Angeles. In this regard, I knew that the person who directed and controlled these operations was DAVID MISCAVIGE, the head of Scientology.

5. In 1987 I was directed by SCIENTOLOGY to represent myself as a survivor of the People's Temple immolation in Jonestown, Guyana and befriend FORD GREENE in order to perpetrate a Scientology operation on him. During Christmas 1987 FORD invited me to spend the holiday with him. When I was in his office alone during that period of time, I availed myself of his confidential legal records, legal files of his clients, a rolodex of his contacts and photographed his office.

6. In approximately September 1991 at a McDonald's Restaurant located in Albany, Oregon, EUGENE INGRAM showed me a letter to the Federal Bureau of Investigation which I read. The letter from INGRAM stated that FORD GREENE was involved in the trafficking of drugs and the misuse of his law office by trading homosexual favors for the rendering of legal services. INGRAM frequently discussed his desire to have FORD GREENE indicted under

the RICO statutes.

7. On or about December 20, 1991, I attended a meeting at SCIENTOLOGY's OFFICE OF SPECIAL AFFAIRS in Los Angeles where the law offices of BOWLES and MOXON are located. Present at that meeting were the following individuals: KENDRICK MOXON, TIMOTHY BOWLES, RANDY SPENCER and ERIC MORAN, all of whom are attorneys at Scientology's in-house law firm, BOWLES AND MOXON. Also present were EUGENE INGRAM, and DAVID BUTTERWORTH, the director of Scientology's OFFICE OF SPECIAL AFFAIRS. One purpose of this meeting was to develop a plan to destroy the personal and professional credibility of FORD GREENE and to continue attempts to have him disbarred from practicing law because he represented litigants against SCIENTOLOGY.

The operations that were proposed and developed at this meeting included the following:

a. To create a public scheme portraying FORD GREENE as a sex fiend. This was to be accomplished through EUGENE INGRAM's manipulation of Margery Wakefield, a former client of FORD GREENE with a history of mental instability. INGRAM was to go to Florida and dupe Ms. Wakefield into signing a declaration that would be detrimental to FORD GREENE.

b. INGRAM asked me to execute a declaration stating that when I stayed with FORD GREENE over the Christmas holidays in 1987 Ford induced me to get drunk on alcohol and stoned on marijuana at which time INGRAM told me to state that FORD sodomized me and forced me to orally copulate him. INGRAM also told me to state that I did not admit to this in an earlier (false) declaration because FORD was to have threatened to send his drug dealer contacts to kill me if I stated anything of the homosexual attack.

c. INGRAM also wanted me to swear that FORD GREENE was a paying and frequent patron of a San Francisco bathhouse, that FORD GREENE was infected with the AIDS virus, and was intentionally passing it to others.

d. INGRAM also sought to expand on what he called the "fuck buddy" relationship between FORD GREENE and GERALD ARMSTRONG. One of INGRAM's suggestions was to set FORD GREENE up with a new male client who then would provide a declaration swearing that GREENE agreed to barter his legal services in return for sex.

e. Another of INGRAM's suggestions was that I go to San Anselmo and break into and enter GREENE's office when he was not present and plant cocaine and child pornography in his desk and then advise the police of GREENE's illegal possessions.

f. Ingram also suggested tampering with FORD GREENE's automobile by severing its brakes lines in order to produce a serious accident. When I said to Ingram that it could also kill GREENE, INGRAM responded, "There's no loss in a dead fag." INGRAM also suggested orchestrating an accident involving GREENE on the Golden Gate Bridge that would result in GREENE's car going over the side of the Bridge.

g. INGRAM and SCIENTOLOGY have also attempted to have GREENE disbarred by filing complaints with the State Bar.

8. At the instigation of EUGENE INGRAM, DAVID BUTTERWORTH and the aforementioned attorneys in BOWLES AND MOXON I have executed declarations in which I made false statements of fact. With respect to FORD GREENE, the false statements of fact that I made included, but were not limited to, the following:

790.2

a. FORD GREENE is a homosexual. The truth is I have no basis for this statement;

b. FORD GREENE frequented the Castro Street area (a gay area) in San Francisco. I have no factual basis for this statement;

c. While nude FORD GREENE hugged me and would not let go. This is false.

d. GREENE took a picture of me, naked, as I was leaving the shower. This is false.

9. INGRAM, BUTTERWORTH and lawyers at BOWLES AND MOXON repeatedly expressed that they would do anything to prevent GERALD ARMSTRONG and FORD GREENE from working together.

Pursuant to the laws of the State of California, I hereby declare the foregoing to be true and correct. Executed on February 11, 1993 at Portland, Oregon.

Garry L. Scarff

GARRY L. SCARFF

791

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Attorney for Defendant
GERALD ARMSTRONG

FILED
FEB 24 1993
AMES H. DEMPSEY, CL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation;

Plaintiffs,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

No. ~~152 229~~ BC52395 157680

**DECLARATION OF JERRY WHITFIELD IN OPPOSITION TO ORDER TO SHOW CAUSE RE CONTEMPT**

Date: March 2, 1993
Time: 8:30 a.m.
Dept: 86

Trial Date: May 3, 1993
Discovery Cut Off: None Set
Motion Cut Off: None Set

FILED
NOV 16 1994
HOWARD HANS
MARIN COUNT

ORIGINAL

# DECLARATION OF JERRY WHITFIELD.

I, Jerry Whitfield, declare as follows:

1. I am over the age of eighteen. I reside at 661 N. Occidental Boulevard in Los Angeles, California.

2. I was a member of Scientology from 1974 to 1984, when I left the organization.

3. I am making this declaration to correct some of the misrepresentations which Laurie Bartilson, attorney for plaintiff CSI (Church of Scientology International), has made concerning me in her application for an order to show cause why Gerald Armstrong should not be held in contempt.

4. Ms. Bartilson states that the videotape I made of Gerald Armstrong on November 6, 1992, was for "use in forcible deprogrammings to force unwilling Scientologists to renounce their faith." (Application at page 9). "Deprogramming", according to Scientology's definition of the word, employs the actions of kidnapping, false imprisonment, food and sleep deprivation, and physical and sexual abuse. The videotape was not made for such use. Ms. Bartilson's statement is false.

6. Further, I do not do and have never done forcible deprogrammings.

7. Further, I am not a "self-proclaimed specialist in the deprogramming" of Scientologists. I have never made this statement anywhere, at any time.

8. I was a Scientologist for ten years. During that time I was regularly required to study Hubbard's policies. "Black PR" and "Fair Game" are techniques of Scientology created by its founder, L. Ron Hubbard, and are defined in his policies on how Scientology is to destroy the reputation of individuals it considers are critics or threats. See EXHIBITS A, B, C, D. Each of these exhibits is a true copy of the original. Each is copyrighted.

Ms. Bartilson's spurious claims about me are part of Scientology's "Black Propaganda" campaign against me which has included the distribution internationally of false dossiers about me and my wife in 1991, 1992 and 1993.

I know that L. Ron Hubbard's policies remain in effect even though he is deceased. See EXHIBIT E, F. Each of these exhibits is a true copy of the original. Each of these exhibits is copyrighted.

9. My wife and I do speak to individuals involved in Scientology and always at the request of their family or close friends. My wife and I speak about our experiences in Scientology. Our work is always conducted with no physical force or other coercion.

10. Ms. Bartilson states that I am currently a defendant in a "false imprisonment and false arrest suit" brought by Scientologist Angel Casillas, Angel Casillas v. Jerry Whitfield, Hana Whitfield, and Does 1-25, Los Angeles Municipal Court Case No. 91K49349. See EXHIBIT G. This is a true copy of the original

complaint.

This complaint is a misleading attempt to document false allegations of "kidnapping" and "forcible deprogramming" against myself and my wife. In the complaint, Mr. Casillas admits that on the day in question, he was participating in surveillance of myself and my wife in order to investigate us for the Church of Scientology. When stopped by the police (see paras nine and ten), whose advice we sought regarding being followed, Mr. Casillas initially refused to identify himself and requested to speak to counsel. Following this, the police searched his car. He was then detained by the police for less than a half hour before he was released while they investigated if he had committed a crime. A full account is written in my declaration of March 2, 1992. See EXHIBIT H. This is a true copy of the original.

This can be verified in two depositions, one taken from Sergeant James DeVito, a police officer of the city of Los Angeles, Rampart Division, on January 3, 1992, and the second taken from Jerry Whitfield on August 18, 1992.

Sworn to under penalty of perjury under the laws of the State of California that this foregoing is true and correct and was executed on this 21st day of February, 1993.

Jerry Whitfield

Jerry Whitfield

**EXHIBIT A**

HUBBARD COMMUNICATIONS OFFICE
Saint Hill Manor, East Grinstead, Sussex

Remimeo

HCO POLICY LETTER OF 18 OCTOBER 1967
Issue IV

## PENALTIES FOR LOWER CONDITIONS

(Applies both Orgs and Sea Org)

LIABILITY - Suspension of Pay and a dirty grey rag on left arm and day and night confinement to org premises.

TREASON - Suspension of pay and deprivation of all uniforms and insignia, a black mark on left cheek and confinement on org premises or dismissal from post and debarment from premises.

DOUBT - Debarment from premises. Not to be employed. Payment of fine amounting to any sum may have cost org. Not to be trained or processed. Not to be communicated or argued with.

ENEMY - SP Order. Fair game. May be deprived of property or injured by any means by any Scientologist without any discipline of the Scientologist. May be tricked, sued or lied to or destroyed.

LRH:jp
Copyright © 1967
by L. Ron Hubbard
ALL RIGHTS RESERVED

L. RON HUBBARD
Founder

---

1 ID

TYPE OF HEARING Trial
CASE NO. 988151
PLFF EXH. NO. 1
ADMITTED IN EVIDENCE
DATE 5/28/74
CLARENCE E. CABELL, COUNTY CLERK
BY M. B. [illegible] DEPUTY

EXHIBIT B

# MAGAZINE ARTICLES ON
# LEVEL
# O
# CHECKSHEET

BY L.RON HUBBARD

THE AMERICAN ST. HILL ORGANIZATION

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# Dissemination of Material

The dissemination of materials of Scientology is a problem of comparable stature to the use of techniques on a preclear in an auditing session. Just as you would not process a preclear with heavy processes when all he could take might be ARC Straight Wire, thus you would not issue Scientology materials of considerable weight to people incapable of assimilating them.

The immediate result of the issuance of materials not intended for that audience is to produce a state of confusion in the minds of that audience regarding Scientology. Here we have no question of talking down to people. Here we have no question of 'watering' our material, but we do have a question of disseminating Scientology. If we do it properly, then Scientology will be very broadly known. If we do it improperly it will stop in its tracks, and be known, if at all, as a confusion.

When materials are issued above the acceptance level of an audience, a confusion results. A confusion is the antithesis of a flow. Any communication resulting in a confusion then brings about an eddy or tumbling of particles rather than their spread. And a confusion at length becomes a mystery.

Part ten of the Code of a Scientologist says: "I pledge myself to engage in no unseemly disputes with the uninformed on the subject of my profession." This is an immediate injunction not to start an eddy of confusion. The employment of Scientology to the greatest good of the greatest number of Dynamics does not include using it knowingly or unknowingly to confuse hearers.

An outline of the communication lines of Scientology follows:

1. The General public to the general public.
2. Scientologists to the general public.
3. Member HASI to member HASI.
4. Trained Scientologist to a member of the HASI.
5. Member of the HASI to a preclear.
6. Trained Scientologist to a preclear.
7. Trained Scientologist to a trained Scientologist.
8. HASI to membership.
9. HASI to trained Scientologist.
10. HASI to the general public

## 1. GENERAL PUBLIC TO THE GENERAL PUBLIC

There are several things we would like the general public to say to the general public about Scientology. The first of these is that we would like the general public, when it sees an individual or group problem, to be quite certain that the proper thing to do is for that individual or group to consult a Scientologist. For instance, if somebody is having headaches, we would like his friends to come to the obvious solution that this person should see a Scientologist or should join a group undergoing processing.

The next on this communication line is that Scientology does not pose any threat, that Scientologists are good citizens, and that they can be trusted with problems of a private and confidential nature, or with problems dangerous to other people, such as the problem of criminality. Another frame of mind we would like to see the public have and register is that people attacking Scientologists have something wrong with them (and if you could meet any such people personally you would see that this is no more than truth). As a subdivision of this, the actual substance of communication about what Scientology is, from the general public to the general public, should be that Scientology says that good health and immortality are attainable. That it is something compounded out of all Man knows of the subject of Man, and that people are living units operating bodies, rather than bodies, and that this living unit is the human soul. Given this much communication line, the general public can embroider enormously, and unless a person in the general public can express his opinions, and unless the subject gives him a chance to express his own opinions, and so let HIM be interestING, he will not talk about the subject. Thus the data in the general public should give individuals a chance to be interesting, by knowing no more and no less than the above. We are not interested in sensationalism personalities, or the complexity of Scientological methodology being discussed by the general public. As a subdivision of this, we do not want Scientology to be reported in the press, anywhere else than on the religious page of newspapers. It is destructive of word of mouth to permit the public presses to express their biassed and badly reported sensationalism. Therefore we should be very alert to sue for slander at the slightest chance so as to discourage the public presses from mentioning Scientology. What the newspapers say is not word of mouth. As an example of this, how many minutes today have you spent in discussing current events? NEWSPAPER REPORTERS WRITING ARTICLES ON SCIENTOLOGY DO NOT EXPRESS SCIENTOLOGY. Scientologists should never let themselves be interviewed by the press. That's experience talking!

As a subdivision of general public to general public we have the problem of the professions which might consider Scientology to be antipathetic to them, amongst these would be psychologists and medical doctors as well as psychiatrists. These persons are entirely in error when they express the opinion that Scientologists are against them. Scientology does not consider them sufficiently important to be against. Flour-pills or any incantation or system will produce in 22 per cent. of the public, benefit. Therefore, any practice or art can always achieve 22 per cent. recovery in their patients. It is when we better this 22 per cent. that we are being efficient. We have no more quarrel with a psychologist than we would have with an Australian witch-doctor. We have no quarrel with a pychiatrist any more than we should quarrel with a barbarian because he had never heard of nuclear physics. And as for the medical doctor, we know very well that modern medical practice, having lately outgrown phlebotomy, has come of age to point where it can regulate structure in a most remarkable and admirable way. In Scientology we believe a medical doctor definitely has his role in a society just as an engineer has his role in civil government. We believe that a medical doctor should perform emergency operations such as those made necessary by accidents; that he should perform orthopaedics; that he should deliver babies; that he should have charge of the administration of drugs; that his use of antibiotics is beneficial; and that wherever he immediately and curatively addresses structure he is of use in a community. The only place we would limit a medical doctor is in the field of treatment of psychosomatic medicine, where he has admittedly and continuously failed, and the only thing we would ask a medical doctor to change about his practice is to stop taking money for things he knows he cannot cure, i.e., spiritual, mental, psychosomatic, and social ills.

With regard to psychologists, medical doctors, and psychiatrists, then, what would one say in talking with them? But again we have section 10 of the Code of the Scientologist. You wouldn't expect this psychologist, or phychiatrist, or medical doctor to get into an argument with you on how to get rats or find their way through mazes, how you would set a tibia, or what voltage you would put on an electric shock machine. Therefore, and equally, do not permit yourself to be put in the situation where you are discussing privately or in public, the methodologies of your wisdom. The attitude of a Scientologist toward people is these professions should be: "I have my techniques. It took me a long time to learn them just as it took you a long time to learn yours, and I am not going to try to make a minister out of you, and you are not going to try to make a medical doctor (psychiatrist, psychologist) out of me. I am an expert instructor only where it is intimately involved with the human spirit. I can produce my effects. You can produce yours. In view of the fact that you do not pretend to operate in the field of the human spirit, and I do not pretend to operate in the field of structure, I do not see how there can be any discussion. But things that I can't handle in structure when called upon I will be very happy to refer to you, and I shall expect that when matters of the spirit come into question you will have enough understanding of life, where we are all specialists, to refer them to me." A quiet explanation of this character will do a great deal to place you as a professional man in their realm of understanding of professional men.

Should anyone challenge you for having suddenly secured a relief in a hospital or an institution from some dire malady which balked the efforts of the professional men in charge of it, and should you ever be "called upon the carpet" for having "interfered" with the progress of a case, you should be extremely dismayed, and act it, to find yourself in the presence of barbarians who do not believe in the power of prayer, in the will of God, or the promises of Jesus Christ. And you should point out that, whereas the body was in their keeping, they did not at any time care to take purview of the human soul. And if anything has occurred because the soul, in your province, then reacted upon the body, you believe that they are unwilling to admit the will of God in their treatment of human beings, and if this is the case you now, while you are being addressed by such people, discover yourself to be in a strange place where men pretending to be Christians doubt God, the Son of God, and the power of prayer. Your entire address to such people, in such a situation, publicly or privately, should be entirely overt, accusative, and not at any time apologetic. And you should immediately make it your business to place this matter before the proper authorities, that people are in charge of an institution here, are not Christians, and do not believe in God, and you should inform your accusers that you are going to do so.

Should you ever be arrested for practicing Scientology, treating people, make very sure, long before the time comes, that you have never used drugs or surgery, and that you have never prescribed a diet, or vitamins, and when that time might come, make very sure that you immediately and instantly, within two or three hours after your receipt of the warrant, have served upon the signer of that warrant, a personal civil suit for \$100,000.00 damages for having caused the arrest of a Man of God going about his business in his proper profession, and for having brought about embarrassing publicity and molestation. Place the suit and WIRE THE HASI IMMEDIATELY. Make the whole interest during the entire time of such an unfortunate occurrence the fact that the signer of such a warrant, who would ordinarily be a medical doctor in charge of the medical department of some city, had dared fly in the teeth of religion. And use what is necessary of the earlier passage above to drive the point home. DO NOT simply fall back out of communication if you are attacked, but attack, much more forcefully and artfully and arduously. And if you are foolish enough to have an attorney who tells you not to sue, immediately dismiss him and get an attorney who will sue. Or, if no attorney will sue, simply have an HASI suit form filled out and present it yourself to the county clerk in the court of the area in which your case has come up.

IN ALL SUCH CASES OR ARREST FOR THE PRACTICE OF SCIENTOLOGY, THE HASI WILL SEND A REPRESENTATIVE AT ONCE, BUT DO NOT WAIT FOR HIS ARRIVAL TO PLACE THIS SUIT. THE SUIT MUST ALREADY HAVE BEEN FILED WHEN THE HASI ATTORNEY ARRIVES.

In other words, do not, at any moment leave this act unpunished. for, if you do you are harming all other Scientologists in the area. When you are attacked it is your responsibility then to secure from further attack not only yourself but all those who work with you. Cause blue flame to dance on the court house roof until everybody has apologized profusely for having dared to become so adventurous as to arrest a Scientologist who, as a minister of the church, was going about his regular duties. As far as the advances of attorneys go that you should not sue, that you should not attack, be aware of the fact that I, myself, in Wicnita, Kansas, had the rather interesting experience of discovering that my attorney employed by me and paid by me, had been for some three months in the employ of the people who were attacking me, and that this attorney had collected some insignificant sum of money after I hired him, by going over to the enemy and acting upon their advices. This actually occurred, so beware of attorneys who tell you not to sue. And I call to your attention the situation of any besieged fortress. If that fortress does not make sallies, does not send forth patrols to attack and harass, and does not utilize itself to make the beseiging of it a highly danger- ous occupation, that fortress may, and most often does, fall.

The DEFENSE of anything is UNTENABLE. The only way to defend anything is to ATTACK, and if you ever forget that, then you will lose every battle you are ever engaged in, whether it is in terms of personal conversation, public debate, or a court of law. NEVER BE INTERESTED IN CHARGES. DO, yourself, much MORE CHARGING, and you will WIN. And the public, seeing that you won, will then have a communication line to the effect that Scientlo- gists WIN. Don't ever let them have any other thought than that Scientology takes all of its objectives.

Another point directly in the interest of keeping the general public to the general public communication line in good odor: it is vitally important that a Scientologist put into action and overtly keep in action Article 4 of the Cole: "I pledge myself to punish to the fullest extent of my power anyone misusing or degrading Scientology to harmful ends." The only way you can guarantee that Scientology will not be degraded or misused is to make sure that only those who are trained in it practice it. If you find somebody practicing Scientology who is not qualified, you should give them an oppor- tunity to be formally trained, at their expense, so that they will not abuse and degrade the subject. And you would not take as any substitute for formal training any amount of study.

You would therefore delegate to members of the HASI who are not otherwise certified only those processes mentioned below, and would discourage them from using any other processes. More par- ticularly, if you discovered that some group calling itself "precept processing" had set up and established a series of meetings in your area, that you would do all you could to make things interesting for them. In view of the fact that the HASI holds the copyrights for all such material, and that a scientific organization of material can be copyrighted and is therefore owned, the least that could be done to such an area is the placement of a suit against them for using materials of Scientology without authority. Only a member of the HASI or a member of one of the churches affiliated with the HASI has the authority to use this information. The purpose of the suit is to harass and discourage rather than to win.

The law can be used very easily to harass, and enough harassment on somebody who is simply on the thin edge anyway, well knowing that he is not authorized, will generally be sufficient to cause his professional decease. If possible, of course, ruin him utterly.

A D.Scn. has the power to revoke a certificate below the level of D.Scn. but not a D.Scn. However, he can even recommend to the *CECS of the HASI that D.Scns. be revoked, and so any sincere Scientologist is capable of policing Scientology. This is again all in the interest of keeping the public with a good opinion of Scientology, since bad group processing and bad auditing are worse than bad publicity and are the worst thing that can happen to the general public to general public communication line.

The best thing that can happen to it is good auditing, good public presentation, and a sincere approach on the subject of Scientology itself. Remember, we are interested in ALL treatment being beneficial, whether it is Scientology or not. For bad treatment in any line lowers the public opinion of all treatment.

In addressing persons professionally interested in the ministry, we have another interesting problem in public presentation. We should not engage in religious discussions. In the first place, as Scientologists, we are gnostics, which is to say that we know what we know. People in the ministry ordinarily suppose that knowingness and knowledge are elsewhere resident than in themselves. They believe in belief and substitute belief for wisdom. This makes Scientology no less a religion, but makes it a religion with an older tradition and puts it on an intellectual plane.

Religious philosophy, then, as represented by Scientology, would be opposed in such a discussion to religious practice. We are all-denominational rather than non-denominational, and so we should be perfectly willing to include in our ranks a Moslem, or a Taoist, as well as any Protestant or Catholic, while people of the ministry in Western civilization, unless they are evangelists, are usually dedicated severely to some faction which in itself is in violent argument with many other similar factions. Thus these people are ready to argue and are practiced in argument, and there are more interpretations of one line of scripture than there are sunbeams in a day. Beyond explaining one's all-denominational character, explaining that one holds the Bible as a holy work, one should recognize that the clergy of Western Protestant churches defines a minister or the standing

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*Committee for Examinations, Certification and Services.

of a church by these salient facts: Jesus Christ was the Savior of Mankind, Jesus Christ was the Son of God.

We in Scientology find no argument with this, and so in discussing Scientology with other ministry one should advance these two points somewhere in the conversation. Additionally, one should advance to the ministry exactly those things mentioned earlier as what we would like the general public to believe. Christ, if you care to study the New Testament, instructed his disciples to bring wisdom and good health to man, and promised mankind immortality, and said the Kingdom of Heaven was at hand, and the translators have not added that "at hand" possibly meant three feet back of your head. We could bring up these points but there is no reason to. You are not trying to educate other ministry. A friendly attitude toward other ministry in general, and fellow ministers in particular, is necessary.

The way to handle an individual minister of some other church is as follows: get him to tell you exactly what HE believes, get him to agree that religious freedom is desirable, then tell him to make sure that if that's the way he believes, he should keep on believing that, and that you would do anything to defend his right to believe that.

None of these people as individuals are antipathetic. They know a great deal about public presence, and can be respected for such knowledge. However, engaging in long discourses, or trying to educate a minister of some Protestant church or a priest of the Catholic faith into the tenets of Scientology is not desirable and is directly contrary to Article 10 of the Code of a Scientologist.

You will find you have many problems and people in common with other ministers. They're alive too. Also you will see a campaign to place only ministers in charge of the mind, and mental healing. Talk about these things.

The Christian Church has been hurt by factionalism. We stand for peace and happiness. Therefore, let us carry it forward by example, not by unseemly discussions.

## 2. SCIENTOLOGISTS TO THE GENERAL PUBLIC

In the assemblage of congregations, and in addressing the general public at large, a Scientologist has a responsibility to give to the public, in the form of such congregations or meetings, information acceptable to them, which can be understood by them, and which will send them away with the impression that the Scientologist who addressed them knew definitely what he was talking about and that Scientology is an unconfused, clear-cut subject.

**EXHIBIT C**

HUBBARD COMMUNICATIONS OFFICE
37 Fitzroy Street, London, W.1

809

HCO POLICY LETTER OF 15 AUGUST 1960
Re-issued from Sthil

Assn Secs
HCO Secs

# DEPT OF GOVT AFFAIRS

(Cancels any previous directions to set up a Special Zone Dept)
(This Policy Letter is mandatory all Central Organizations)

There shall be established on a board level and outside the structure of the Central Org and HCO but under the board of HASI Ltd, a new department to be called "The Department of Government Affairs".

More and more, as governments disintegrate under the threat of atomic war and communism, central organizations have had to give high executive time to governmental affairs to the great loss of the organizations themselves. The enturbulence entered into Scientology activities by legal matters, tax matters, and matters of assisting governments to maintain stability, has sapped our time and fixed our attention to our own loss.

Now to remedy this situation, I wish to contain and cordon, in a military sense, this incursion and to prohibit utterly and completely such entrance (of these matters or our own project for governments) into Central Org or HCO comm lines. In other words, Central Orgs and HCOs are run by, for and as Scientology service and activity units and the special Department of Government Affairs shall handle other matters and specifically deny such non-Scientology matters entrance into organizational comm lines.

The Department of Government Affairs shall be headed and directed with a minimum of personnel and shall not be able to call upon the personnel of the Central Org or HCO for further assistance than the relay of communications.

The Director of Government Affairs shall be a fully qualified person of good judgement subject to control of the Board of Directors and shall be subject to the advices and directions of the Board and the HCO and Assn Secretary. Only Washington and South Africa are excluded from supervision of the Dept by the Assn Sec, Org Sec and HCO Sec. In all other offices the Director of Government Affairs shall be subordinate to the Assn Sec and HCO Sec.

Under this department comes the corporation's solicitors, attorneys, chartered accountants and any attorney or accountant hired directly by the corporation for outside legal or tax or filing purposes.

The allotment and issue of shares comes under this department, but the actual invoicing and banking shall be done as always by the Dept of Accounts or, for HCO, by the HCO Secretary.

All contracts, filings with the government, all tax reports and their preparation, corporation minutes, annual meetings, legal papers, suits against and by the corporation, whether HASI Ltd or HCO Ltd, all legal investigatory work and detectives, all contacts with government agents, bureaus and departments, all assistance to governments, messages to governments, handling answers from governments or courts shall be cared for by the Department, whether to advance or protect Scientology or its corporations by government or legal channels.

All legal documents and the Valuable Document files for HCO and HASI shall be kept by the Department in a proper safe in accordance with previous rules written for the keeping and handling of valuable documents.

All share sales reports and all legal, governmental and corporation reports to be made to the boards shall be made to it by this Department.

No shares may be advertised or issued save with the approval of this department.

No contracts, purchases or mortgages may be undertaken without the approval of this Department and then only by the action of this Department.

It is clearly understood that the Department shall not undertake financial management for the Central Org or HCO nor may it direct the Central Org or HCO on purely Scientology affairs or Scientology dissemination except where these may impinge directly upon the government, and even then this Department is enjoined from forcing government laws or rulings upon the Central Org or HCO by threat of danger or ominous advices, nor may the Department employ either solicitors nor accountants who specialize in ominous advices to the Orgs since the Orgs could be discouraged or impeded by such.

The object of the Department is to broaden the impact of Scientology upon governments and other organizations and is to conduct itself so as to make the name and repute of Scientology better and more *forceful*. Therefore defensive tactics are frowned upon in the department. We are not trying to make the Central Orgs and HCOs "be good". We are trying to make their reach more secure and effective. Only attacks resolve threats.

In the face of danger from Govts or courts there are only two errors one can make: (a) do nothing and (b) defend. The right things to do with any threat are to (1) Find out if we want to play the offered game or not, (2) If not, to derail the offered game with a feint or attack upon the most vulnerable point which can be disclosed in the enemy ranks, (3) Make enough threat or clamor to cause the enemy to quail, (4) Don't try to get any money out of it, (5) Make every attack by us also sell Scientology and (6) Win. If attacked on some vulnerable point by anyone or anything or any organization, always find or manufacture enough threat against them to cause them to sue for peace. Peace is bought with an exchange of advantage, so make the advantage and then settle. Don't ever defend. Always attack. Don't ever do nothing. Unexpected attacks in the rear of the enemy's front ranks work best.

Never put the organization on "wait" because of courts or other matters. It's up to the Department to make the actions of HCO Secs and Org Secs *right*, not enjoin right actions on the HCO and Org Secs.

To win we must have treasure and verve. If a Central Org and HCO function perfectly as service units then treasure and consequent security for the further advance are to hand. If the Department operates with verve and elan, even with rashness, it will afford a screen behind which organizations can work.

Example: BMA attacks Scientology in Australia via the government. Answer: throw heavy communication against the weakest point of the BMA—its individual doctors. Rock them with petitions to have medical laws modified which they are to sign. Couple the BMA attack with any group hated by the government. Attack personally by threats or suits any person signing anything for the BMA. Slam the matter into politics, advance a bill into parliament that strips the BMA of all legal rights by opening healing to all. Make the attack by the BMA look ridiculous. Attack medical practices. Investigate horrible practices loudly. (*Always* investigate loudly never quietly.) Make the distinct public and governmental impression and BMA impression that they've run into a barrage of arrows or electronic cannon and that continued attack by them will cause their own disintegration. As all this is being done on a thought or idea level the restimulation of their engrams results in the total impression that they are surrounded by their own dead and the battery may fire again at any minute. And if one makes in writing not one slanderous or libelous statement, there is no defense by them. This example is patterned on what just happened and what we did in Australia where we are winning strongly.

The personnel of the Department should be freed of past track legal and governmental overts by the HGC using evening auditing. This is a must or the Department will otherwise attract attacks. Further, the higher the department personnel is raised on "control" through running help, the less action will have to be undertaken by it and the more it will actually accomplish without violent action.

The goal of the Department is to bring the government and hostile philosophies or societies into a state of complete compliance with the goals of Scientology. This is done by high level ability to control and in its absence by low level ability to overwhelm. Introvert such agencies. Control such agencies. Scientology is the only game on Earth where everybody wins. There is no overt in bringing good order.

The offices of the Department, so far as is possible, should be so situated as to bring no government traffic into the main avenues, comm lines or halls of the Central

Organization or HCO or so as to divert it to the maximum extent from said avenues, comm lines and halls.

The following personnel appointments are made, conditional to acceptance, as Directors of Government Affairs:

| | | | |
|---|---|---|---|
| United States: | Marilynn Routsong | Los Angeles: | Dick Steves |
| South Africa: | Jack Parkhouse | Australia: | Denny Gogerly |
| London: | George Hay | New Zealand: | Steve Stevens. |

In the United States and South Africa the head of the Department of Government Affairs shall be also Trustee or Area Director of the Central Organization while the Org Sec and Assn Sec shall not be, but will be officers of the corporation.

This policy letter and these appointments are prompted by the following facts:

1. My own traffic on government legal affairs is far too heavy and I need help of magnitude on a continental level.
2. HCO Secs and Assn Secs are having difficulty holding down their Orgs and the field because of the time demanded by government affairs.
3. The activity will get heavier rather than lighter.
    (a) The deterioration of government order is accelerating with consequent confusion in all related affairs;
    (b) Increasing amounts of order must be maintained by us at a governmental level against the possibility of finding our areas without governments.
4. We are about to file HASI Ltd and HCO Ltd in all areas with the attendant heavy legal and governmental action necessary.
5. We are about to arrange for the release of and the issue of over half a million pounds of shares to the public, thus making heavy demands on legal and government lines.
6. We are about to finance and erect various media of communications, such as radio stations, on the various continents and this will require enormous amounts of liaison and action in such a department.
7. We are about to finance and find new quarters in the United States and such activities come under the new Department.
8. Due to new clearing techniques, our sphere of control is widening. This is purely a case phenomenon, but will be felt heavily by Orgs in the future. It is necessary to provide comm lines for this widening of influence.

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L. RON HUBBARD

EXHIBIT D

HUBBARD COMMUNICATION
Saint Hill Manor, East Grinstead, Sussex

HCO POLICY LETTER OF 25 FEBRUARY 1966

Remimeo
Exec Sec Hats
HCO Sec Hat
Legal Officer Hat
LRH Comm Hat
Dist Sec Hat
Press Hat
Sec: 5 Dept 3

HCO Div
LRH Comm

## ATTACKS ON SCIENTOLOGY
(Additional Pol Ltr)

Anyone proposing an investigation of or an "Enquiry" into Scientology must receive this reply and no other proposal:

"We welcome an investigation into (Mental Healing or whoever is attacking us) as we have begun one ourselves and find shocking evidence."

You can elaborate on the evidence we have found and lay it on thick attacking the attackers only.

NEVER agree to an investigation of Scientology. ONLY agree to an investigation of the attackers.

This was the BIG error made in Victoria. I okayed an Enquiry into all mental healing. I ordered evidence on psychiatric murders to be collected. Non-Compliance with those orders brought on the loss of Melbourne and the law in Victoria against Scientology. This was the non-compliance that began it. The original order I gave was relayed as "we welcome an Enquiry into Scientology...." or it was changed to that in Melbourne.

This is correct procedure:

(1) Spot who is attacking us.

(2) Start investigating them promptly for FELONIES or worse using our own professionals, not outside agencies.

(3) Double curve our reply by saying we welcome an investigation of them.

(4) Start feeding lurid, blood, sex, crime actual evidence on the attackers to the press.

Don't ever tamely submit to an investigation of us. Make it rough, rough on attackers all the way.

You can get "reasonable about it" and lose. Sure we break no laws. Sure we have nothing to hide. BUT attackers are simply an anti-Scientology propaganda agency so far as we are concerned. They have proven they have no facts and will only lie no matter what they discover. So BANISH all ideas that any fair hearing is intended and start our attack with their first blast. Never wait. Never talk about us - only them. Use their blood, sex, crime to get headlines. Don't use us.

I speak from 15 years of experience in this. There has never yet been an attacker who was not reeking with crime. All we had to do was look for it and murder would come out.

They fear our Meter. They fear freedom. They fear the way we are growing. Why?

Because they have too much to hide.

When you use that rationale you win. When you go dishwater and say "We honest chickens just plain love to have you in the coop, Brer Fox," we get clobbered. The right response is "We militant public defenders of the freedom of the people want that there Fox investigated for eating living chickens!" Shift the spotlight to them. No matter how. Do it!

You can elaborate on the formula. Let's say some other branch of government wants to investigate us via the press. Just apply the formula.

"We welcome a public enquiry into (that branch activity) as we have begun to investigate their (----)." It will always work. It would have worked on the U.S. F.D.A. when they first began five years [illegible] their raid on D.C. They run! And that's all we want.

## HOW TO STOP ATTACKS

The way we will eventually stop all attacks from there on out is by processing the society as follows:

(1) Locate a source of attack on us.

(2) Investigate it.

(3) Expose it with wide lurid publicity.

You see the same thing in a preclear. He has a rotten spot in his behaviour. He attacks the practitioner. The spot is located on a meter. It blows and the preclear relaxes.

Well this is just what is happening in the society. We are a practitioner to the society. It has rotten spots in it. Those show up in attacks on us. We investigate and expose - the attack ceases.

We use investigators instead of E-Meters. We use newspapers instead of auditor reports. But it's the same problem exactly.

So long as we neglect our role as auditor-to-the-society we will be attacked.

Society is pretty crazy. It's a raw jungle. So it will take a lot of work. We must be willing to put in that work as a group or we'll be knocked about.

Remember, CHURCHES ARE LOOKED UPON AS REFORM GROUPS.

Therefore we must act like a reform group.

The way to seize the initiative is to use our own professionals to investigate intensively parts of the society that may attack us. Get an ammunition locker full. Be sure of our facts. And then expose via the press.

If we do this right, press, instead of trying to invent reasons to attack us will start hanging around waiting for our next lurid scoop.

We must convert from an attacked group to a reform group that attacks rotten spots in the society. We should not limit ourselves to mental healing or our own line. We should look for zones to investigate and blow the lid off and become known as a mighty reform group. We object to slavery, oppression, torture, murder, perversion, crime, political sin and anything that makes Man unfree.

The only error we can make is disperse our investigation. We do a preliminary look, then we must select a target and investigate it until we have the cold facts and then BANG, fire the salvo.

Don't worry about libel if our facts indicate rottenness. The last thing that target will do is sue as then we would have a chance to prove it in court, which they are terrified of our doing.

Remember - the only reason we are in trouble with the press or governments is that we are not searching out and exposing rotten spots in the society. We must practice on the whole group called society. If we do not it will attack us just as a preclear will attack a Scientologist that won't audit him.

To get wholly over to cause we must select targets, investigate and expose before they attack us.

We have at this writing a long way to go. But we might as well

[illegible]

start somewhere. Begin by investigating any attacking group, find and expose the dead bodies. Then work on to our selecting the targets.

And that will handle it all.

L. RON HUBBARD

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This is a retype of the original document. It is not intended for broad distribution. It is intended for educational purposes only.

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This Hubbard Policy was not published in either the 1974 or the new 1992 OEC Volume 7s. It was listed in the 1976 HCO Policy Subject Index but NOT in the new 1992 OEC & Management Series Policy Index.

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HUBBARD COMMUNICATIONS OFFICE
Saint Hill Manor, East Grinstead, Sussex

HCO POLICY LETTER OF 25 FEBRUARY 1966

Remimeo
Exec Sec Hats
CO Sec Hat
Legal Officer Hat
LRH Comm Hat
Dist Sec Hat
Press Hat
Sect 5 Dept 3

HCO DIV
LRH Comm

## ATTACKS ON SCIENTOLOGY
(Additional Pol Ltr)

Anyone proposing an investigation of or an "Enquiry" [sic] into Scientology must receive this reply and no other proposal:

"We welcome an investigation into (Mental Healing or whoever is attacking us) as we have begun one ourselves and find shocking evidence".

You can elaborate on the evidence we have found and lay it on [illegible word] attacking the attackers only.

NEVER agree to an investigation of Scientology. ONLY agree to an investigation of the attackers.

This was the BIG error made in Victoria. I okayed an Enquiry [sic] into all mental healing. I ordered evidence on psychiatric murders to be collected. Non-Compliance with these orders brought on the loss of Melbourne and the law in Victoria against Scientology. This was the non-compliance that began it. The original order I gave was relayed as "we welcome an Enquiry [sic] into Scientology ...." or it was changed to that in Melbourne.

This is correct procedure:

(1) Spot who is attacking us.

(2) Start Investigating them promptly for FELONIES or worse using our own professionals, not outside agencies.

(3) Double curve our reply by saying we welcome an investigation of them.

(4) Start feeding lurid, blood, sex, crime actual evidence on the attackers to the press.

Don't ever tamely submit to an investigation of us. Make it rough, rough on attackers all the way.

You can get "reasonable about it" and lose. Sure we break no laws. Sure we have nothing to hide. BUT attackers are simply an anti-Scientology propaganda agency so far as we are concerned. They have proven they have no facts and will only lie no matter what they discover. So BANISH off ideas that any fair hearing is intended and start our attack with their [illegible word]. Never wait. Never talk about us - only them. Use their blood, sex, crime to get headlines. Don't use us.

I speak from 15 years of experience in this. There has never yet been an attacker who was not reeking with crime. All we had to do was look for it and murder would come out.

They fear our Meter. They fear freedom. They fear the way we are growing. Why?

Because they have too much to hide.

When you use that rationale you win. When you go dishwater and say "We honest chickens just plain love to have you in the coup, Brer Fox." we get clobbered. The right response is, "We militant public defenders of the freedom of the people, we want there Fox investigated for eating living chickens." Shift the spotlight to them. No matter how. Do it!

You can elaborate on the formula. Let's say some other branch of government wants to investigate us via the press. Just apply the formula.

"We welcome a public enquiry into (that branch activity) as we have begun to investigate their (------)." It will always work. It would have worked on the U.S. F.D.A. when they first began five years ago in their raid on D.C. They run! And that's all we want.

## HOW TO STOP ATTACKS

The way we will eventually stop all attacks from here on out is by processing the society as follows:

(1) Locate a source of attack on us.

(2) Investigate it.

(3) Expose it with wide lurid publicity.

You see the same thing in a preclear. He has a rotten spot in his behavior. He attacks the practitioner. The spot is located on a meter. It blows and the preclear relaxes.

Well this is just what is happening in the society. We are a practitioner to the society. It has rotten spots in it. Those show up in attacks on us. We investigate and expose -the attack ceases.

We use investigators instead of E-Meters. We use newspapers instead of auditor reports. But it's the same problem exactly.

So long as we neglect our role as auditor-to-the-society we will be attacked.

Society is pretty crazy. It's a raw jungle. So it will take a lot of work. We must be willing to put in that work as a group or we'll be knocked about.

Remember. CHURCHES ARE LOOKED UPON AS REFORM GROUPS.

Therefore we must act like a reform group.

The way to seize the initiative is to use our own professionals to investigate intensively parts of the society that may attack us. Get an ammunition locker full. Be sure of our facts. And then expose via the press.

If we do this right, press, instead of trying to invent reasons to attack us will [sic] start hanging around waiting for our next lurid scoop.

We MUST convert from an attacked group to a reform group that attacks rotten spots in the society. We should not limit ourselves to mental healing or our own line. We should look for zones to investigate and blow the lid off and become known as a mighty reform group. We object to slavery, oppression, torture, murder, perversion, crime, political sin and anything that makes Man unfree.

The only error we can make is disperse our investigation. We do a preliminary look, then we must select a target and investigate it until we have the cold facts and then BANG, fire the salvo.

Don't worry about libel if our facts indicate rottenness. The last thing that target will do is sue as then we would have a chance to prove it in court, which they are terrified of our doing.

Remember - the only reason we are in trouble with the press or governments is that we are not searching out and exposing rotten spots in the society. We must practice on the whole group called society. If we do not it will attack us just as a preclear will attack a Scientologist that won't audit him.

To get wholly over to cause we must select targets, investigate and expose before they attack us.

We have at this writing a long way to go. But we might as well start somewhere. Begin by investigating any attacking group and expose the dead bodies. Then work on to our selecting the targets.

And that will handle it all.

L. RON HUBBARD

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EXHIBIT E

SCN POLICY DIRECTIVE 19

7 July 1982

## THE INTEGRITY OF SOURCE

It is hereafter firm Church policy that LRH ISSUES ARE TO BE LEFT INTACT AS ISSUED.

No one except LRH may cancel his issues.

No one except LRH can revise his issues whereby changes are incorporated into the text and then reissued. Any valid revisions must hereafter be made in a separate issue stating the change and how the revision is to read. It must also state why the change is being effected, for example, if there has been an ecclesiastical change or a technical development.

Changes in Church policy become valid Church policy by being adopted by the Board per his request in HCO PL 1 Sep 66 FOUNDER that "....Policy Letters are hereafter to be accepted or nullified by Boards of Directors in their regular meetings".

However, the original LRH issue (regardless of type) shall remain intact so that the original wording is kept. In this way, his writings retain their integrity and there is no mystery as to what he wrote and what the revision stated and why.

The only occasion for any revision of an LRH issue is if a typographical error was found in the original.

Already existing issues stand intact and valid. Any further changes will be dealt with on an issue-by-issue basis.

This policy will allow the integrity of Source to be reinstated.

WATCHDOG COMMITTEE

for the

CHURCH OF SCIENTOLOGY
INTERNATIONAL

**EXHIBIT F**

HUBBARD COMMUNICATIONS OFFICE
Saint Hill Manor, East Grinstead, Sussex

HCO POLICY LETTER OF 24 SEPTEMBER 1970RA
REVISED 3 JULY 1977

Remimeo
All Hats

## ISSUES—TYPES OF

To clarify the value and distribution of various major types of mimeo issues, the following summary is made.

HCO PL—Hubbard Communications Office Policy Letter. Written by LRH only. This is a permanently valid issue of all third dynamic, org and administrative technology. These, regardless of date or age, form the know-how in running an org or group or company. The bulk of hat material is made up from HCO PLs. They are printed in green ink on white paper. They are filed by consecutive date. More than one issued on the same date are marked Issue I, II, III, etc. Every org must have full master and bulk files of these or it won't be able to make up hats or hat packs for staff or know what it's doing and will fail. Stencil files to replenish supplies of HCO PLs are also kept. It took 20 years to find out how to run orgs. It's all in HCO PLs. HCO PLs are distributed to all staffs or as indicated or as made up in packs.

HCOBs—Hubbard Communications Office Bulletins. Written by LRH only. These are the technical issue line. They are valid from first issue unless specifically cancelled. All data for auditing and courses is contained in HCOBs. An org needs a master file of them (and their stencil file) from which to prepare course packs. These outline the product of the org. They are distributed as indicated, usually to technical staff. They are red ink on white paper, consecutive by date.

TAPES—These are an issue line of both policy and tech as designated and are recopied at Pubs Org and issued for courses, congresses and other purposes.

LRH EDs—L. Ron Hubbard Executive Directives, earlier called Sec EDs. These are issues by LRH to various areas. They are not valid longer than one year if fully complied with when they are automatically retired. They otherwise remain valid until fully complied with or until amended or cancelled by another LRH ED. They carry current line, projects, programs, immediate orders and directions. They are numbered for area and sequence for the area and are sent to staffs or specific posts in orgs. They are blue ink on white paper with a special heading.

The above are the four main lines of issue of valid data. They have first priority on mimeo and in distribution.

Red, green or blue ink on white paper indicates my material only. No other mimeos may be issued using these color schemes. This is to separate out my material and make it easily identifiable. Experience shows org stats and public results soar immediately on implementation of LRH EDs, HCOBs and HCO PLs.

BOARD ISSUES—BPLs (Board Policy Letters), BTBs (Board Technical Bulletins), BEDs (Board Executive Directives). These are similar in content to HCO PLs, HCOBs and LRH EDs respectively, but are written by someone other than LRH and issued on Flag by or for the boards of directors of the Churches of Scientology. BPLs and BTBs are valid until cancelled or revised. BEDs are valid for one year after which they expire unless cancelled before that. Distribution of board issues is as indicated. They are printed on buff paper with green ink for BPLs, red for BTBs and dark blue for BEDs.

HCO ADMIN LETTERS—Issued by HCO personnel from Flag with AVU okay. Green on salmon. Contain checklists of issues, admin data of an informative nature. Do not contain policy or orders. Distributed as designated.

EDs—Executive Directives. Issued by any Executive Council and named for the area it applies to. Thus ED WW, meaning issued to Worldwide. They are valid for only one year. They contain various immediate orders, programs, etc. They are blue ink on blue paper.

DIVISIONAL ORDERS—Each division has its own order line to its staffs or to its opposite numbered divisions. The order is followed by the place and org name. The paper is color-flashed for the division.

## SEA ORG ORDERS

All Sea Org issues not written by LRH other than MOs (not FMOs), COs, SSOs and OODs must be authorized by AVU before issue and are issued for the boards of directors of the Churches of Scientology.

FO—FLAG ORDER. This is the equivalent to a policy letter in the Sea Org. Contains policy and sea technical materials. They are numbered and dated. They do not decay. HCO PLs and FOs are both in effect on Sea Org orgs, ships, offices and bases. Black ink on white paper. Distribution to all Sea Org members. It is vital for SO units to have master files and quantity of FOs from which HATS can be made up for SO personnel and courses.

CBO—CENTRAL BUREAUX ORDER. Applies to SO bureaux. It is distributed to bureaux personnel and SO org executives only. Usually noted under heading to what bureau it refers. Issued by the head of a central bureau at Flag. Black on white. Has no force on nonbureaux personnel. These regulate the organization and activity of SO bureaux and their offices. Bureaux need master files for bureaux hats.

BO—BASE ORDER. Has been used interchangeably for Flag Order. FOs started as Base Orders. Occasionally erroneously used at bases. Should be a CO (Continental Order) when locally issued. These are filed by area in consecutive number sequence in their own files.

SO ED—SEA ORG EXECUTIVE DIRECTIVE. Distributed broadly or not to SO and/or Scientology orgs and binding on both. Usually issued by Flag management personnel. Contains immediate orders or programs. Blue on blue paper.

FDD—FLAG DIVISIONAL DIRECTIVE. Applies to specific divisions in Scn and SO orgs alike. Is the SO equivalent of a Divisional Order. Is senior to a WW Divisional Order. Issued by a Flag Aide. Printed on divisional color flash.

FCO—FLAG CONDITIONS ORDER. Is the equivalent of a Scn org HCO Div Order such as an Ethics Order. Distributed only to those concerned and Masters-at-Arms (Ethics Files).

FMO—FLAG MISSION ORDER. Distributed to those concerned, not to others. Usually confidential. Should never be shown around or sent to Bureaux Liaison Offices not concerned with that mission.

MO—MISSION ORDER. Issued by a Flag Operations Liaison Office under authority of its Commanding Officer. Confidential, no further distribution than those concerned and copy to Flag.

FSO—FLAG SHIP ORDER. Never goes off Flag. Full distribution to Flag Ship's personnel.

SSO—STATION SHIP ORDER. Issued for that station ship only by the Captain or Deputy Captain. Goes to all personnel of that ship and a copy to Flag.

CO—CONTINENTAL ORDER. Issued by Continental Captain or the Commanding Officer of a FOLO. Distribution is all SO personnel in the area.

AO—AIDES ORDER. Covers EXTERNAL matters having to do with FOLOs and outer orgs. Usually contains evaluations by myself or Flag management personnel. The program of an evaluation is sometimes issued as an FPGMO. Issued to senior executives on Flag and personnel concerned. They are numbered by area to which they apply.

FPGMO—FLAG PROGRAM ORDER. Issued on Flag for internal or external use. Contains long- or short-range production programs which are usually the entirety or major part of the handling of a published evaluation. Distributed as designated. Numbered by area to which they apply.

FPJO—FLAG PROJECT ORDER. Issued on Flag to execute a target in a program. Like FPGMOs, FPJOs are issued on Flag for internal or external use. Distributed as designated. Numbered by area to which they apply.

FPO—FLAG PERSONNEL ORDER. Contains all personnel transfers, removals, postings, etc., on Flag and ordered by Flag in orgs. Issued only by Flag. Composed per HCO PL 24 Sept. 71, ASSIGNMENT, MODEL TO BE USED. Distributed to those concerned.

TIPs—TECHNICAL INDIVIDUAL PROGRAMS. Originated so that personal programs for students and pcs coming to Flag may be issued and published. Numbered and dated. More than one program can be on one issue. They are on GREEN paper on one side of a page so they can be cut up. Distributed only to those concerned.

FBDLs—FLAG BUREAUX DATA LETTERS. Issued by a Flag executive to COs/EDs, FRs and Flag execs. Their purpose is TO INFORM EXECUTIVES. May contain news, forewarnings of traffic loads, expansions, PR interest items. Essentially they are newsletters. They are numbered. Printed in black ink on white paper. (Formerly they were blue ink on white paper.)

OOD—ORDERS OF THE DAY. Issued by any Commanding Officer to his own unit daily and may contain current activities, Ethics Orders, etc., by others. Contains the schedule of the day. Serves as a crew briefing.

(OODs are also put out to their own orgs by Executive Directors or Executive Councils in Scn orgs.)

Of *all* types of SO orders only the FO is carefully preserved and master-filed, as it is HAT material vital to the efficiency, comfort and safety of the crews.

HCO PLs and HCOB master files are also required in SO units, making only three vital files and can be locally reproduced with stencils preserved.

All SO issues are black ink on white except the SO ED, FDD and TIP. HCO PL and HCOB color flash is preserved in SO master files.

Note that all SO issues except FOs and CBOs decay within the year and have no continuous validity.

## WRONG PUBLIC

The reason why there are so many types of orders is to separate publics. Tapes are often used to wrong publics than which intended and should be watched on this basis.

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It is not difficult to separate out the various orders. It is mainly of interest to distribution and Mimeo and files personnel that very correct identification of different types of orders occur and for staffs to understand the relative command value of what they are receiving.

L. RON HUBBARD
Founder

Revision assisted by
LRH Comm Policy Revision
Project I/C

[*Editor's Note:* A more complete list of mimeo issues is included in the appendix of OEC Volume 0.]

EXHIBIT G

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ANGEL CASILLAS

DUPLICATE
ORIGINAL FILED
MUNICIPAL COURT
OCT 09 1991
LOS ANGELES JUDICIAL DIST.
EDWARD M. KRITZMAN, CLERK
BY YVETTE REID
DEPUTY

MUNICIPAL COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ANGEL CASILLAS,

Plaintiff,

vs.

JERRY WHITFIELD, HANA WHITFIELD, and DOES 1-25,

Defendants.

Case No. 91K49349

COMPLAINT FOR DAMAGES FOR FALSE IMPRISONMENT AND FOR INTENTIONAL AND NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

Plaintiff Angel Casillas, for his complaint against Defendants, Jerry Whitfield, Hana Whitfield, and Does 1 - 25, alleges as follows:

## PARTIES

1. Plaintiff Angel Casillas is, and at all relevant times was, a citizen of the State of California, and resident of Los Angeles County.

2. Defendants Jerry and Hana Whitfield ("Whitfields"), husband and wife, are, and at all relevant times were, citizens of the State of California and residents of Los Angeles County.

3. Plaintiff is ignorant of the true names and capacities of the Defendants identified as Does 1 through 25, inclusive and thus brings suit against those Defendants by those fictitious names. Plaintiff will seek leave of Court to amend this complaint to include those Defendants by their true names upon the ascertainment of their true names and capacities, and their responsibility for the conduct alleged herein.

## FACTUAL ALLEGATIONS

4. Defendants are active members of an anti-religious hate group called the Cult Awareness Network (hereinafter "CAN"). Among the goals of CAN are to harm or destroy religious organizations with which they do not agree. Included among CAN's list of targeted religious organizations are minority Christian sects, the Scientology faith and many others. CAN was founded as the Citizens Freedom Foundation ("CFF") by, among others, one Theodore ("Ted") Patrick in 1975. Because of adverse publicity and criminal convictions of Patrick and others in actions related to CFF's purposes, it re-organized and changed its name to Cult Awareness Network.

5. Patrick was also an originator of a practice euphemistically known as "deprogramming" which was and is a key function and operating procedure of CAN and its members to this day. Deprogramming takes several different forms, depending upon the audacity of those attempting it. However, all forms of deprogramming have as a common denominator the effort to dissuade a member of a religious organization from his or her chosen beliefs, for a substantial fee paid to the "deprogrammer." Patrick has been convicted of kidnapping members

of religious organizations as a result of his deprogramming efforts wherein through verbal assaults, harassment, sleep deprivation, starvation, attempted hypnosis and imprisonment he has attempted to dissuade such persons from their religious beliefs.

6. The Whitfields are also members of CAN and professional deprogrammers. For a substantial fee, the Whitfields have hired themselves out to individuals on the representation that they could dissuade family members of the persons hiring them to disassociate themselves from and renounce their religious beliefs, with which the family members disagreed. The Whitfields have attempted - for a large fee - to deprogram members of the Scientology faith.

7. Desiring to protect its own members, the Church retained the services of counsel to advise it with respect to the illegal acts of the Whitfields against its members. Counsel accordingly retained a private detective to investigate the Whitfields' deprogramming methods and practices for protection of its members. Plaintiff was assigned to assist in the surveillance of the Whitfields to determine the extent of and to document their illegal activities. On August 6, 1991, Plaintiff observed the Whitfields flagging down two police officers. Plaintiff is informed and believes and thereon alleges that the Whitfields made false criminal charges against the Plaintiff, asserting that Plaintiff was dangerous and posed a threat of physical harm to Defendants because he was a Scientologist. The police, having falsely been persuaded that Plaintiff was about to commit a felony based on the Whitfields' false accusations,

took him into custody. The Whitfields' false charges filed against the Plaintiff are the origin for the instant action.

8. All the events described more fully below took place on August 6, 1991, unless otherwise stated.

9. Plaintiff followed the Whitfields from their home located in Silverlake, California to the parking lot of the Silverlake Motel where the Whitfields flagged down two Los Angeles Police Department ("LAPD") officers, J. Devito and A. Flores. Plaintiff observed the Whitfields conversing with policeman and alleges that Defendants made false and incriminating allegations against the Plaintiff, including but not limited to, Plaintiff's attempts to cause severe physical harm to the Whitfields. Based upon such false statements, one of the officers stopped Plaintiff's car by instructing him to pull to the side of the road.

10. Shielding himself with the door of the police car, the Officer drew his gun and pointed it at Plaintiff, and commanded him to place his hands outside of the window, open the door from the outside, and then exit the vehicle. Plaintiff complied with all instructions.

11. The Officer then ordered Plaintiff to turn away, kneel down and place his hands on the back of his head. Next, the Officer handcuffed Plaintiff. Because of the inflammatory statements made by the Whitfields, the Officer placed the handcuffs in a fashion which was excessively tight and cut off the circulation to Plaintiff's hands. Parts of Plaintiff's right hand remained numb for several days after the incident.

12. The Officer then placed Plaintiff in the back seat of

the police car and began questioning Plaintiff. Plaintiff did not respond to more than questions regarding identification and requested to speak to counsel, so the Officer went to search Plaintiff's car. The Officer was so inflamed by Defendants' false allegations that he ripped Plaintiff's radio from his car, damaging the wires. The Officer continued questioning Plaintiff, who refused to answer any further questions until such time that he could talk to his lawyer.

13. After searching Plaintiff's car a second time, the Officer again questioned Plaintiff about what he was doing. Plaintiff responded that he was on a surveillance assignment with a private investigator.

14. The Officer drove back to the parking lot where the Whitfields and the second officer were located. Plaintiff remained handcuffed in the back seat of the police car, while the two officers talked with the Whitfields. The Officer resumed questioning Plaintiff, who cooperated and provided the Officer with his name, address, ethnic background and what he was doing. Any other questions Plaintiff refused to answer.

15. During questioning, the Officer made threatening and intimidating statements to Plaintiff to the effect that: (a) "Who do you think you are, Elliot Ness with your radio equipment;" (b) "If you do not give me the data I request I will arrest you;" (c) "I know what Scientologists do to ex-Scientologists;" (d) "I could arrest you for giving me false data;" (e) "I will give you three minutes to decide whether you want to talk or not;" (f) "It's not nice for a white boy to get arrested in L.A.;" (g) "We have an investigation on you and what

they [Whitfields] say determines whether I take you in or not. I will find anything to take you in and once you are in there I will tell the prisoners stories about you;" and (h) "You were violating their [Whitfields] rights." These statements caused Plaintiff great concern for his bodily integrity and safety if he was to be taken to jail.

16. The Officer's supervisor, Sergeant Moen, arrived some 15 minutes later, and in a non-threatening manner informed Plaintiff that there was an investigation concerning Plaintiff. Sergeant Moen then walked over to the other policemen and talked for about 10 minutes, after which Moen returned to Plaintiff and released him.

17. No charges have ever been filed by the Whitfields against Plaintiff for any of the above-referenced actions. The Whitfields' presentation of false information to the LAPD directly and wrongfully caused the false imprisonment and emotional distress of Plaintiff.

## FIRST CAUSE OF ACTION
## (FALSE IMPRISONMENT AGAINST ALL DEFENDANTS)

18. Plaintiff repeats, realleges, and incorporates herein by this reference each and every allegation contained in paragraphs 1 through 17, inclusive, of this Complaint.

19. As a direct and proximate result of the Whitfields making knowingly false accusations that led the LAPD to assume that Plaintiff had committed a felony or was about to commit a felony, Plaintiff was stopped, handcuffed and confined in the back seat of a police car where he was forced to remain. As a direct result of the Whitfields' malicious and oppressive

actions, Plaintiff was confined. The Whitfields by their actions intended or knew that there was a substantial certainty that the police would confine Plaintiff.

## SECOND CAUSE OF ACTION
## (INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)
## (AGAINST ALL DEFENDANTS)

20. Plaintiff repeats, realleges, and incorporates herein by this reference each and every allegation contained in paragraphs 1 through 19, inclusive, of this Complaint.

21. The intentional, extreme and outrageous action taken by the Whitfields led directly to Plaintiff being taken into custody by the police. This action was meant to cause and has caused Plaintiff great emotional trauma.

## THIRD CAUSE OF ACTION
## (NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS)
## (AGAINST ALL DEFENDANTS)

22. Plaintiff repeats, realleges, and incorporates herein by this reference each and every allegation contained in paragraphs 1 through 21, inclusive, of this Complaint.

23. Defendants Whitfields knew or should have known that falsely charging Plaintiff with the commission of a crime would result in unnecessary and unjustified violation of Plaintiff's rights, leading to mental distress. As mentioned above, Plaintiff is currently experiencing emotional trauma from having been stripped of his rights without good cause or due process of law.

WHEREFORE, Plaintiff prays for judgment as follows:

### ON THE FIRST CAUSE OF ACTION

1. For compensatory damages according to proof.
2. For punitive and exemplary damages in a sum to be

determined at trial.

3. For a permanent injunction enjoining Whitfields from falsely filing charges against Plaintiff with any governmental enforcement agency.

ON THE SECOND AND THIRD CAUSES OF ACTION

1. For compensatory damages according to proof.

2. For punitive and exemplary damages in a sum to be determined at trial.

ON ALL CAUSES OF ACTION

1. For such other and further relief as the Court may deem just and proper.

Dated: October 9, 1991

Respectfully submitted,

WILLIAM T. DRESCHER

BOWLES & MOXON

By: ____________________
Kendrick L. Moxon

Attorneys for Plaintiff
ANGEL CASILLAS

EXHIBIT H

# DECLARATION OF JERRY WHITFIELD

I, JERRY WHITFIELD, declare as follows:

1. I am over the age of eighteen. I reside at 661 North Occidental Boulevard in Los Angeles, California. The following is a true and factual account of the happenings on August 5, 1991. If called upon to testify in a court of law to this, I could do so under oath.

2. My wife and I left our apartment on Monday morning, August 5, 1991, to do some errands. I noticed a white car following us. I made several consecutive left turns to ascertain that in fact it was following us. I told my wife we had someone following us but I wanted to be sure. I turned into a driveway at the Silver Lake Motel and started to back out so as to make a "U" turn to see what the white car would do. However, I noticed a black and white police car in the parking lot of the motel and I decided to pull into the lot and speak to the police officers. I got out of my car and told them that we were being followed by a white car that had no license plates. I told them I did not know who the person was or why we were being followed. I asked if we had any legal rights and if so, what they were. I did not accuse that person of any crime. During this time the white car went to the end of the street and stopped there for several minutes. Then, it turned around and drove back towards us, then slowly continued on past us, looking at us, going eastward. At that point, one of the police officers, Officer DeVito, got into the police car and followed the white car. We

had not asked the police to question or detain Mr. Casillas at this point and never did so, nor did we assist them in the detention in any way.

3. About ten or fifteen minutes later, Officer DeVito returned and told us there was a lot of surveillance equipment in the back seat of the white car including a portable fax, two way radio and binoculars. He also told us this appeared to be a sophisticated surveillance operation but that he was not certain that there had been any criminal violation and would have to call his superior. He asked us to tell him what was going on and tell him everything.

4. We told Officer DeVito we had been involved in Scientology, but had left it in 1984. We also told him that we were now self-employed and worked with families who have loved ones in Scientology and were distressed about their involvement. These people often asked us to discuss our opinions and research regarding Scientology. As a result of our discussions with these Scientologists, many of them decide they no longer wish to be involved with Scientology. That would be enough for Scientology to practice FAIR GAME on us. FAIR GAME is a Scientology term used to designate enemies of Scientology whereby a Scientologist may harm, injure or destroy in anyway someone who has been declared FAIR GAME.

5. We told Officer DeVito that we also had reason to believe that we had been under surveillance a number of times over the last weeks, and we did not know what to do about this or even if there was anything that could be done. And because of

our background as discussed above, I believed that the surveillance was continuing as part of a deliberate plan. Officer DeVito said that he would need to contact his superior which he did.

6. Sgt. Moen arrived about ten or fifteen minutes later and had a discussion with the other two officers. Then Sgt. Moen came over and spoke to us. He told us they could only hold the driver until they found out if he had any outstanding warrants on him. Prior to that moment we did not know that Officer DeVito had taken custody of the driver of the white car or that he was in the squad car. Our conversations with Officer DeVito and later with Sgt. Moen took place near our car and we were at some distance from the squad car. Officer DeVito said that prior to being detained, the driver refused to identify himself or to answer any questions asked of him. I discovered the name of the driver of the white car, Angel Casillas, only when the lawsuit was filed.

7. A few minutes later, a report came back and the three officers informed us that the driver of the white car would not be held. They told us to leave and they would let him go. We were never given the identify of the driver nor any other information regarding him.

8. We left and went about our business. We observed no other surveillance for the rest of that day. We had not

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spoken to Mr. Casillas at any point at all, nor had we had any non-verbal communication or contact with him. We had not accused Mr. Casillas of any crime and we did not press any charges.

Sworn to under penalty of perjury under the laws of the State of California that this foregoing is true and correct and was executed on this second day of March, 1992.

Jerry Whitfield

JERRY WHITFIELD

HUB LAW OFFICES
Ford Greene, Esquire
California State Bar No. 107601
711 Sir Francis Drake Boulevard
San Anselmo, California 94960-1949
Telephone: (415) 258-0360

Attorney for Defendant
GERALD ARMSTRONG

FILED
FEB 24 1993
AMES H. DEMPSEY, CL

FIL
NOV 16 1994
HOWARD
MARIN COUNTY

ORIGINAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MARIN

| | |
|---|---|
| CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation;<br>Plaintiffs,<br>vs.<br>GERALD ARMSTRONG; DOES 1 through 25, inclusive,<br>Defendants. | 157690<br>BC52395<br>No. ~~152 229~~<br>**DECLARATION OF FORD GREENE IN OPPOSITION TO ORDER TO SHOW CAUSE RE CONTEMPT**<br>Date: March 2, 1993<br>Time: 8:30 a.m.<br>Dept: 86<br>Trial Date: May 3, 1993<br>Discovery Cut Off: None Set<br>Motion Cut Off: None Set |

FORD GREENE declares:

1. I am an attorney licensed to practice law in the Courts of the State of California and am the attorney of record for Gerald Armstrong, defendant herein.

2. I have been the attorney of record throughout this case. The following documents are true and correct copies of dicuments herein and are designated by the following exhibit numbers:

A. Memorandum of Intended Decision, filed June 22, 1984 in Church of Scientology v. Armstrong, LASC No. C 420153. (Admitted in evidence, RT 5/26/92 at p.114) ("Amstrong I")

B. Indemnity Agreement, undated in Armstrong I (Admitted in evidence at injunction hearing, RT 5/26/92 at p. 114)

C. Partial Transcript of Hearing on Motion for Preliminary Injunction herein on May 27, 1992;

D. Partial Transcript of Proceedings of December 23, 1991 in Armstrong I.

E. Partial Transcript of Hearing on Motion for Preliminary Injunction herein on May 26, 1992;

F. Minute Order herein of July 2, 1992;

G. Order from Second District Court of Appeal in Case No. B068401 filed 11/20/92;

H. Notice of Motion and Motion for a Preliminary Injunction, dated November 9, 1989, filed in Richard and Vicki Aznaran v. Church of Scientology of California, in US District Court, Central District of California, Case No. CV 88-1786 JMI (Ex) (Aznaran) (Admitted in evidence herein, RT 5/26/92 at p.47)

H-1: Settlement Agreement of Vicki Aznaran (exhibit to H);

H-2: Settlement Agreement of Richard Aznaran (exhibit to H);

I. Declaration of Vicki J. Aznaran executed 8/8/88.

J. Order denying preliminary injunction in Aznaran entered 1/10/90;

J. Excerpts of Deposition of Gerald Armstrong taken July 22, 1992.

Under penalty of perjury pursuant to the laws of the State of California I hereby declare that the foregoing is true and correct according to my first-hand knowledge, except those matters stated to be on information and belief, and as to those matters, I believe them to be true.

Executed on February 23, 1993, at San Anselmo, California

FORD GREENE

FILED
JUN 22 1984
[illegible] J. Corcoran,
Bosie M. Hart
BY BOSIE M. HART, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY OF CALIFORNIA,
Plaintiff,
vs.
GERALD ARMSTRONG,
Defendant.

MARY SUE HUBBARD,
Intervenor.

No. C 420153

MEMORANDUM OF INTENDED DECISION

In this matter heretofore taken under submission, the Court announces its intended decision as follows:

As to the tort causes of action, plaintiff, and plaintiff in intervention are to take nothing, and defendant is entitled to Judgment and costs.

As to the equitable actions, the court finds that neither plaintiff has clean hands, and that at least as of this time, are not entitled to the immediate return of any document or objects presently retained by the court clerk. All exhibits

EXHIBIT H

received in evidence or marked for identification, unless specifically ordered sealed[1], are matters of public record and shall be available for public inspection or use to the same extent that any such exhibit would be available in any other lawsuit. In other words they are to be treated henceforth no differently than similar exhibits in other cases in Superior Court. Furthermore, the "inventory list and description," of materials turned over by Armstrong's attorneys to the court, shall not be considered or deemed to be confidential, private, or under seal.

All other documents or objects presently in the possession of the clerk (not marked herein as court exhibits) shall be retained by the clerk, subject to the same orders as are presently in effect as to sealing and inspection, until such time as trial court proceedings are concluded as to the severed cross complaint. For the purposes of this Judgment, conclusion will occur when any motion for a new trial has been denied, or the time within such a motion must be brought has expired without such a motion being made. At that time, all documents neither received in evidence, nor marked for identification only, shall be released by the clerk to plaintiff's representatives. Notwithstanding this order, the parties may at any time by written stipulation filed with the clerk obtain release of any or all such unused materials.

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[1] Exhibits in evidence No. 500-40; JJJ; KKK; LLL: MMM; NNN; OOO; PPP; QQQ; RRR; and 500-QQQQ.

Exhibits for identification only No. JJJJ; Series 500-DDDD, EEEE, FFFF, GGGG, HHHH, IIII, NNNN-1, OOOO, ZZZZ, CCCCC, GGGGG, IIIII, KKKKK, LLLLL, OOOOO, PPPPP, QQQQQ, BBBBBB, OOOOOO, BBBBBBB.

Defendant and his counsel are free to speak or communicate upon any of Defendant Armstrong's recollections of his life as a Scientologist or the contents of any exhibit received in evidence or marked for identification and not specifically ordered sealed. As to all documents, and other materials held under seal by the clerk, counsel and the defendant shall remain subject to the same injunctions as presently exist, at least until the conclusion of the proceedings on the cross complaint. However, in any other legal proceedings in which defense counsel, or any of them, is of record, such counsel shall have the right to discuss exhibits under seal, or their contents, if such is reasonably necessary and incidental to the proper representation of his or her client.

Further, if any court of competent jurisdiction orders defendant or his attorney to testify concerning the fact of any such exhibit, document, object, or its contents, such testimony shall be given, and no violation of this order will occur. Likewise, defendant and his counsel may discuss the contents of any documents under seal or of any matters as to which this court has found to be privileged as between the parties hereto, with any duly constituted Governmental Law Enforcement Agency or submit any exhibits or declarations thereto concerning such document or materials, without violating any order of this court.

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This court will retain jurisdiction to enforce, modify, alter, or terminate any injunction included within the Judgment.

Counsel for defendant is ordered to prepare, serve, and file a Judgment on the Complaint and Complaint in Intervention, and Statement of Decision if timely and properly requested, consistent with the court's intended decision.

## Discussion

The court has found the facts essentially as set forth in defendant's trial brief, which as modified, is attached as an appendix to this memorandum. In addition the court finds that while working for L.R. Hubbard (hereinafter referred to as LRH), the defendant also had an informal employer-employee relationship with plaintiff Church, but had permission and authority from plaintiffs and LRH to provide Omar Garrison with every document or object that was made available to Mr. Garrison, and further, had permission from Omar Garrison to take and deliver to his attorneys the documents and materials which were subsequently delivered to them and thenceforth into the custody of the County Clerk.

Plaintiff Church has made out a prima facie case of conversion (as bailee of the materials), breach of fiduciary duty, and breach of confidence (as the former employer who provided confidential materials to its then employee for certain specific purposes, which the employee later used for other purposes to plaintiff's detriment). Plaintiff Mary Jane Hubbard has likewise made out a prima facie case of conversion and invasion privacy (misuse by a pe n of private matters entrusted to him for certain specific purposes only).

While defendant has asserted various theories of defense, the basic thrust of his testimony is that he did what he did, because he believed that his life, physical and mental well being, as well as that of his wife were threatened because the organization was aware of what he knew about the life of LRH, the secret machinations and financial activities of the Church, and his dedication to the truth. He believed that the only way he could defend himself, physically as well as from harassing lawsuits, was to take from Omar Garrison those materials which would support and corroborate everything that he had been saying within the Church about LRH and the Church, or refute the allegations made against him in the April 22 Suppressive Person Declare. He believed that the only way he could be sure that the documents would remain secure for his future use was to send them to his attorneys, and that to protect himself, he had to go public so as to minimize the risk that LRH, the Church, or any of their agents would do him physical harm.

This conduct if reasonably believed in by defendant and engaged in by him in good faith, finds support as a defense to the plaintiff's charges in the Restatements of Agency, Torts, and case law.

Restatement of Agency, Second, provides:

> "Section 395f: An agent is privileged to reveal information confidentially acquired by him in the course of his agency in the protection of a superior interest of himself or a third person.

"Section 418: An agent is privileged to protect interests of his own which are superior to those of the principal, even though he does so at the expense of the principal's interest or in disobedience to his orders."

Restatement of torts, Second, section 271:

"One is privileged to commit an act which would otherwise be a trespass to or a conversion of a chattel in the possession of another, for the purpose of defending himself or a third person against the other, under the same conditions which would afford a privilege to inflict harmful or offensive contact upon the other for the same purpose."

The Restatement of Torts, Second, section 652a, as well as case law, make it clear that not all invasions of privacy are unlawful or tortious. It is only when the invasion is unreasonable that it becomes actionable. Hence, the trier of fact must engage in a balancing test, weighing the nature and extent of the invasion, as against the purported justification therefore to determine whether in a given case, the particular invasion or intrusion was unreasonable.

In addition the defendant has asserted as a defense the principal involved in the case of Willig v. Gold, 75 Cal.App.2d, 809, 814, which holds that an agent has a right or privilege to disclose his principal's dishonest acts to the party prejudicially affected by them.

Plaintiff Church has asserted and obviously has certain rights arising out of the First Amendment. Thus, the court cannot, and has not, inquired into or attempted to evaluate the

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merits, accuracy, or truthfulness of Scientology or any of its precepts as a religion. First Amendment rights, however, cannot be utilized by the Church or its members, as a sword to preclude the defendant, whom the Church is suing, from defending himself. Therefore, the actual practices of the Church or its members, as it relates to the reasonableness of the defendant's conduct and his state of mind are relevant, admissible, and have been considered by the court.

As indicated by its factual findings, the court finds the testimony of Gerald and Jocelyn Armstrong, Laurel Sullivan, Nancy Dincalcis, Edward Walters, Omar Garrison, Kima Douglas, and Howard Schomer to be credible, extremely persuasive, and the defense of privilege or justification established and corroborated by this evidence. Obviously, there are some discrepancies or variations in recollections, but these are the normal problems which arise from lapse of time, or from different people viewing matters or events from different perspectives. In all critical and important matters, their testimony was precise, accurate, and rang true. The picture painted by these former dedicated Scientologists, all of whom were intimately involved with LRH, or Mary Jane Hubbard, or of the Scientology Organization, is on the one hand pathetic, and on the other, outrageous. Each of these persons literally gave years of his or her respective life in support of a man, LRH, and his ideas. Each has manifested a waste and loss or frustration which is incapable of description. Each has broken with the movement for a variety of reasons, but at the same time, each is, still bound by the knowledge that the Church has in its posse. on his or her most inner oughts and confessions, all recorded in "pre-clear (P.C.) folders" or other security files of the organization, and that the Church or its minions is fully capable of intimidation or other physical or psychological abuse if it suits their ends. The record is replete with evidence of such abuse.

In 1970 a police agency of the French Government conducted an investigation into Scientology and concluded, "this sect, under the pretext of 'freeing humans' is nothing in reality but a vast enterprise to extract the maximum amount of money from its adepts by (use of) pseudo-scientific theories, by (use of) 'auditions' and 'stage settings' (lit. to create a theatrical scene') pushed to extremes (a machine to detect lies, its own particular phraseology . . ), to estrange adepts from their families and to exercise a kind of blackmail against persons who do not wish to continue with this sect."[2] From the evidence presented to this court in 1984, at the very least, similar conclusions can be drawn. In addition to violating and abusing its own members civil rights, the organization over the years with its "Fair Game" doctrine has harassed and abused those persons not in the Church whom it perceives as enemies. The organization clearly is schizophrenic and paranoid, and this bizarre combination seems to be a reflection of its founder LRH. The evidence portrays a man who has been virtually a pathological liar when it comes to his history, background, [illegible] achievements. The writings and documents in evidence additionally reflect his egoism, greed, avarice, lust for power, and vindictiveness and aggressiveness against persons perceived by him to be disloyal or hostile. At the same time it appears that he is charismatic and highly capable of motivating, organizing, controlling, manipulating, and inspiring his adherents. He has been referred to during the trial as a "genius," a "revered person," a man who was "viewed by his followers in awe." Obviously, he is and has been a very complex person, and that complexity is further reflected in his alter ego, the Church of Scientology. Notwithstanding protestations to the contrary, this court is satisfied that LRH runs the Church in all ways through the Sea Organization, his role of Commodore, and the Commodore's Messengers.[3] He has, of course, chosen to go into "seclusion," but he maintains contact and control through the top messengers. Seclusion has its light and dark side too. It adds to his mystique, and yet shields him from accountability and subpoena or service of summons.

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[2] Exhibit 500-HHHHH.

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LRH's wife, Mary Sue Hubbard is also a plaintiff herein. On the one hand she certainly appeared to be a pathetic individual. She was forced from her post as Controller, convicted and imprisoned as a felon, and deserted by her husband. On the other hand her credibility leaves much to be desired. She struck the familiar pose of not seeing, hearing, or knowing a[illegible] evil. Yet she was the head of the Guardian Office for years and among other things, authored the infamous order "GO 121669"[4] which directed culling of supposedly confidential P.C. files/folders for purposes of internal security. In her testimony she expressed the feeling that defendant by delivering the documents, writings, letters to his attorneys, subjected her to mental rape. The evidence is clear and the court finds that defendant and Omar Garrison had permission to utilize these documents for the purpose of Garrison's proposed biography. The only other persons who were shown any of the documents were defendant's attorneys, the Douglasses, the Dincalcis, and apparently some documents specifically affecting LRH's son "Nibs," were shown to "Nibs." The Douglasses and Dincalcises were disaffected Scientologists who had a concern for their own safety and mental security, and were much in the same situation as defendant. They had not been declared as suppressive, but Scientology had their P.C. folders, as well as other confessions, and they were extremely apprehensive. They did not see very many of the documents, and it is not entirely clear which they saw. At any rate Mary Sue Hubbard did not appear to be so much distressed by this fact, as by the fact that Armstrong had given the documents to Michael Flynn, whom the Church considered its foremost lawyer-enemy.[5] However, just as the plaintiffs have First Amendment rights, the defendant has a Constitutional right to an attorney of his own choosing. In legal contemplation the fact that defendant selected Mr. Flynn rather than some other lawyer cannot by itself be tortious. In determining whether the defendant unreasonably invaded Mrs. Hubbard's privacy, the court is satisfied the invasion was slight, and the reasons and justification for defendant's conduct manifest. Defendant was told by Scientology to get an attorney. He was declared an enemy by the Church. He believed, reasonably, that he was subject to "fair game." The only way he could defend himself, his integrity, and his wife was to take that which was available to him and place it in a safe harbor, to wit, his lawyer's custody. He may have engaged in overkill, in the sense that he took voluminous materials, some of which appear only marginally relevant to his defense. But he was not a lawyer and cannot be held to that precise standard of judgment. Further, at the time that he was accumulating the material, he was terrified and undergoing severe emotional turmoil. The court is satisfied that he did not unreasonably intrude upon Mrs. Hubbard's privacy under the circumstances by in effect simply making his knowledge that of his attorneys. It is, of course, rather ironic that the person who authorized G.O. order 121669 should complain about an invasion of privacy. The practice of culling supposedly confidential "P.C. folders or files" to obtain information for purposes of intimidation and/or harassment is repugnant and outrageous. The Guardian's Office, which plaintiff headed, was no respector of anyone's civil rights, particularly that of privacy. Plaintiff Mary Sue Hubbard's cause of action for conversion must fail for the same reason as plaintiff Church. The documents were all together in Omar Garrison's possession. There was no rational way the defendant could make any distinction.

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[3] See Exhibit K: Flag Order 3729 - 15 September 1978 "Commodore's Messengers."

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[4] Exhibit AAA.

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[5] "No, I think my emotional distress and upset is the fact that someone took papers and materials without my authorization and then gave them to your Mr. Flynn." Reporter's Transcript, p. 1006.

Insofar as the return of documents is concerned, matters which are still under seal may have evidentiary value in the trial of the cross complaint or in other third party litigation. By the time that proceedings on the cross complaint are concluded, the court's present feeling is that those documents or objects not used by that time should be returned to plaintiff. However, the court will reserve jurisdiction to reconsider that should circumstances warrant.

Dated: June 20, 1984

PAUL G. BRECKENRIDGE, JR.
Judge of the Superior Court

THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED IS A FULL TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE AND OF RECORD IN MY OFFICE.
ATTEST SEP 11 1984 19
JOHN J. CORCORAN, County Clerk and Clerk of the Superior Court of California, County of Los Angeles
BY Hurst DEPUTY
S. HURST

## Appendix

Defendant Armstrong was involved with Scientology from 1969 through 1981, a period spanning 12 years. During that time he was a dedicated and devoted member who revered the founder, L. Ron Hubbard. There was little that Defendant Armstrong would not do for Hubbard or the Organization. He gave up formal education, one-third of his life, money and anything he could give in order to further the goals of Scientology, goals he believed were based upon the truth, honesty, integrity of Hubbard and the Organization.

From 1971 through 1981, Defendant Armstrong was a member of the Sea Organization, a group of highly trained scientologists who were considered the upper echelon of the Scientology organization. During those years he was placed in various locations, but it was never made clear to him exactly which Scientology corporation he was working for. Defendant Armstrong understood that, ultimately, he was working for L. Ron Hubbard, who controlled all Scientology finances, personnel, and operations while Defendant was in the Sea Organization.

Beginning in 1979 Defendant Armstrong resided at Gilman Hot Springs, California, in Hubbard's "Household Unit." The Household Unit took care of the personal wishes and needs of Hubbard at many levels. Defendant Armstrong acted as the L. Ron Hubbard Renovations In-Charge and was responsible for renovations, decoration, and maintenance of Hubbard's home and office at Gilman Hot Springs.

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In January of 1980 there was an announcement of a possible raid to be made by the FBI or other law enforcement agencies of the property. Everyone on the property was required by Hubbard's representatives, the Commodore's Messengers, to go through all documents located on the property and "vet" or destroy anything which showed that Hubbard controlled Scientology organizations, retained financial control, or was issuing orders to people at Gilman Hot Springs.

A commercial paper shredder was rented and operated day and night for two weeks to destroy hundreds of thousands of pages of documents.

During the period of shredding, Brenda Black, the individual responsible for storage of Hubbard's personal belongings at Gilman Hot Springs, came to Defendant Armstrong with a box of documents and asked whether they were to be shredded. Defendant Armstrong reviewed the documents and found that they consisted of a wide variety of documents including Hubbard's personal papers, diaries, and other writings from a time before he started Dianetics in 1950, together with documents belonging to third persons which had apparently been stolen by Hubbard or his agents. Defendant Armstrong took the documents from Ms. Black and placed them in a safe location on the property. He then searched for and located another twenty or more boxes containing similar materials, which were poorly maintained.

On January 8, 1980, Defendant Armstrong wrote a petition to Hubbard requesting his permission to perform the research for a biography to be done about his life. The petition states

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that Defendant Armstrong had located the subject materials and lists of a number of activities he wished to perform in connection with the biography research.

Hubbard approved the petition, and Defendant Armstrong became the L. Ron Hubbard Personal Relations Officer Researcher (PPRO Res). Defendant claims that this petition and its approval forms the basis for a contract between Defendant and Hubbard. Defendant Armstrong's supervisor was then Laurel Sullivan, L. Ron Hubbard's Personal Public Relations Officer.

During the first part of 1980, Defendant Armstrong moved all of the L. Ron Hubbard Archives materials he had located at Gilman Hot Springs to an office in the Church of Scientology Cedars Complex in Los Angeles. These materials comprised approximately six file cabinets. Defendant Armstrong had located himself in the Cedars Complex, because he was also involved in "Mission Corporate Category Sort-Out," a mission to work out legal strategy. Defendant Armstrong was involved with this mission until June of 1980.

It was also during this early part of 1980 that Hubbard left the location in Gilman Hot Springs, California, and went into hiding. Although Defendant Armstrong was advised by Laurel Sullivan that no one could communicate with Hubbard, Defendant Armstrong knew that the ability for communication existed, because he had forwarded materials to Hubbard at his request in mid-1980.

Because of this purported inability to communicate with Hubbard, Defendant Armstrong's request to purchase biographical materials of Hubbard from people who offered them for sale went

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to the Commoc 's Messenger Organization, the personal representatives of Hubbard.

In June of 1980 Defendant Armstrong became involved in the selection of a writer for the Hubbard biography. Defendant Armstrong learned that Hubbard had approved of a biography proposal prepared by Omar Garrison, a writer who was not a member of Scientology. Defendant Armstrong had meetings with Mr. Garrison regarding the writing of the biography and what documentation and assistance would be made available to him. As understood by Mr. Garrison, Defendant Armstrong represented Hubbard in these discussions.

Mr. Garrison was advised that the research material he would have at his disposal were Hubbard's personal archives. Mr. Garrison would only undertake a writing of the biography if the materials provided to him were from Hubbard's personal archives, and only if his manuscript was subject to the approval of Hubbard himself.

In October of 1980 Mr. Garrison came to Los Angeles and was toured through the Hubbard archives materials that Defendant Armstrong had assembled up to that time. This was an important "selling point" in obtaining Mr. Garrison's agreement to write the biography. On October 30, 1980, an agreement was entered into between Ralston-Pilot, Inc. F/S/O Omar V. Garrison, and AOSH DK Publications of Copenhagen, Denmark, for the writing of a biography of Hubbard.

Paragraph 10B of the agreement states that:

> "Publisher shall use its best efforts to provide Author with an office, an officer assistant and/or

research assistant, office supplies and any needed archival and interview materials in connection with the writing of the Work."

The "research assistant" provided to Mr. Garrison was Defendant Armstrong.

During 1980 Defendant Armstrong exchanged correspondence with Intervenor regarding the biography project. Following his approval by Hubbard as biography researcher, Defendant Armstrong wrote to Intervenor on February 5, 1980, advising her of the scope of the project. In the letter Defendant stated that he had found documents which included Hubbard's diary from his Orient trip, poems, essays from his youth, and several personal letters, as well as other things.

By letter of February 11, 1980, Intervenor responded to Defendant, acknowledging that he would be carrying out the duties of Biography Researcher.

On October 14, 1980, Defendant Armstrong again wrote to Intervenor, updating her on "Archives materials" and proposing certain guidelines for the handling of those materials.

It was Intervenor who, in early 1981, ordered certain biographical materials from "Controller Archives" to be delivered to Defendant Armstrong. These materials consisted of several letters written by Hubbard in the 1920's and 1930's, Hubbard's Boy Scout books and materials, several old Hubbard family photographs, a diary kept by Hubbard in his youth, and several other items.

Defendant Armstrong received these materials upon the order of Intervenor, following his letter of October 15, 1980,

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to her in which Defendant stated, at page 7, that there were materials in the "Controller Archives" that would be helpful to him in the biography research.

After these materials were delivered to Defendant Armstrong, Intervenor was removed from her Scientology position of Controller in 1981, presumably because of her conviction for the felony of obstruction of justice in connection with the theft of Scientology documents from various government offices and agencies in Washington, D.C.

During the time Defendant Armstrong worked on the biography project and acted as Hubbard Archivist, there was never any mention that he was not to be dealing with Hubbard's personal documents or that the delivery of those documents to Mr. Garrison was not authorized.

For the first year or more of the Hubbard biography and archive project, funding came from Hubbard's personal staff unit at Gilman Hot Springs, California. In early 1981, however, Defendant Armstrong's supervisor, Laurel Sullivan, ordered him to request that funding come from what was known as SEA Org Reserves. Approval for this change in funding came from the SEA Org Reserves Chief and Watch Dog Committee, the top Commodores Messenger Organization unit, who were Hubbard's personal representatives.

From November of 1980 through 1981, Defendant Armstrong worked closely with Mr. Garrison, assembling Hubbard's archives into logical categories, copying them and arranging the copies of the Archives materials into bound volumes. Defendant Armstrong made two copies of almost all documents copied for

Mr. Garrison - one for Mr. Garrison and the other to remain in Hubbard Archives for reference or recopying. Defendant Armstrong created approximately 400 binders of documents. The vast majority of the documents for Mr. Garrison came from Hubbard's personal Archives, of which Defendant Armstrong was in charge. Materials which came from other Archives, such as the Controller Archives, were provided to Defendant Armstrong by Scientology staff members who had these documents in their care.

It was not until late 1981 that Plaintiff was to provide a person to assist on the biography project by providing Mr. Garrison with "Guardian Office' materials, otherwise described as technical materials relating to the operation of Scientology. The individual appointed for this task was Vaughn Young. Controller Archives and Guardian Office Archives had no connection to the Hubbard Archives, which Defendant Armstrong created and maintained as Hubbard's personal materials.

In addition to the assemblage of Hubbard's Archives, Defendant Armstrong worked continually on researching and assembling materials concerning Hubbard by interviewing dozens of individuals, including Hubbard's living aunt, uncle, and four cousins. Defendant Armstrong did a geneology study of Hubbard's family and collected, assembled, and read hundreds of thousands of pages of documentation in Hubbard's Archives.

During 1980 Defendant Armstrong remained convinced of Hubbard's honesty and integrity and believed that the representations he had made about himself in various publications were truthful. Defendant Armstrong was devoted to

Hubbard and was convinced that any information which he discovered to be unflattering of Hubbard or contradictory to what Hubbard has said about himself, was a lie being spread by Hubbard's enemies. Even when Defendant Armstrong located documents in Hubbard's Archives which indicated that representations made by Hubbard and the Organization were untrue, Defendant Armstrong would find some means to "explain away" the contradictory information.

Slowly, however, throughout 1981, Defendant Armstrong began to see that Hubbard and the Organization had continuously lied about Hubbard's past, his credentials, and his accomplishments. Defendant Armstrong believed, in good faith, that the only means by which Scientology could succeed in what Defendant Armstrong believed was its goal of creating an ethical environment on earth, and the only way Hubbard could be free of his critics, would be for Hubbard and the Organization to discontinue the lies about Hubbard's past, his credentials, and accomplishments. Defendant Armstrong resisted any public relations piece or announcement about Hubbard which the L. Ron Hubbard Public Relations Bureau proposed for publication which was not factual. Defendant Armstrong attempted to change and make accurate the various "about the author" sections in Scientology books, and further, Defendant rewrote or critiqued several of these and other publications for the L. Ron Hubbard Public Relations Bureau and various Scientology Organizations. Defendant Armstrong believed and desired that the Scientology Organization and its leader discontinue the perpetration of the

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massive fraud upon the innocent followers of Scientology, and the public at large.

Because of Defendant Armstrong's actions, in late November of 1981, Defendant was requested to come to Gilman Hot Springs by Commodore Messenger Organization Executive, Cirrus Slevin. Defendant Armstrong was ordered to undergo a "security check," which involved Defendant Armstrong's interrogation while connected to a crude Scientology lie detector machine called an E-meter.

The Organization wished to determine what materials Defendant Armstrong had provided to Omar Garrison. Defendant Armstrong was struck by the realization that the Organization would not work with him to correct the numerous fraudulent representations made to followers of Scientology and the public about L. Ron Hubbard and the Organization itself. Defendant Armstrong, who, for twelve years of his life, had placed his complete and full trust in Mr. and Mrs. Hubbard and the Scientology Organization, saw that his trust had no meaning and that the massive frauds perpetrated about Hubbard's past, credentials, and accomplishments would continue to be spread.

Less than three weeks before Defendant Armstrong left Scientology, he wrote a letter to Cirrus Slevin on November 25, 1981, in which it is clear that his intentions in airing the inaccuracies, falsehoods, and frauds regarding Hubbard were done in good faith. In his letter he stated as follows:

> "If we present inaccuracies, hyperbole or downright lies as fact or truth, it doesn't matter what slant we give them, if

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disproved the man will look, to outsiders at least, like a charlatan. This is what I'm trying to prevent and what I've been working on the past year and a half.

. . .

"and that is why I said to Norman that it is up to us to insure that everything which goes out about LRH is one hundred percent accurate. That is not to say that opinions can't be voiced, they can. And they can contain all the hype you want. But they should not be construed as facts. And anything stated as a fact should be documentable.

"We are in a period when 'investigative reporting' is popular, and when there is relatively easy access to documentation on a person. We can't delude ourselves I believe, if we want to gain public acceptance and cause some betterment in society, that we can get away with statements, the validity of which we don't know.

"The real disservice to LRH, and the ultimate make-wrong is to go on assuming that everything he's ever written or said is one hundred percent accurate and publish it as such without verifying it. I'm

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> talking here about biographical or non-technical writings. This only leads, should any of his statements turn out to be inaccurate, to a make-wrong of him, and consequently his technology.
>
> "That's what I'm trying to remedy and prevent.
>
> . . .
>
> "To say that LRH is not capable of hype, errors or lies is certanly ^sic! not granting him much of a beingness. To continue on with the line that he has never erred nor lied is counterproductive. It is an unreal attitude and too far removed from both the reality and people in general that it would widen public unacceptance.
>
> . . .
>
> ". . . That is why I feel the falsities must be corrected, and why we must verify our facts and present them in a favorable light."

The remainder of the letter contains examples of facts about Hubbard which Defendant Armstrong found to be wholly untrue or inaccurate and which were represented as true by the Hubbards and the Scientology Organization.

In December of 1981 Defendant Armstrong made the decision to leave the Church of Scientology. In order to continue in his commitment to Hubbard and Mr. Garrison in the biography project, he copied a large quantity of documents, which Mr. Garrison had requested or which would be useful to him for the biography. Defendant Armstrong delivered all of this material to Mr. Garrison the date he left the SEA Organization and kept nothing in his possession.

Thereafter, Defendant Armstrong maintained friendly relations with Hubbard's representatives by returning to the Archives office and discussing the various categories of materials. In fact on February 24, 1982, Defendant Armstrong wrote to Vaughn Young, regarding certain materials Mr. Young was unable to locate for Omar Garrison.

After this letter was written, Defendant Armstrong went to the Archives office and located certain materials Mr. Garrison had wanted which Hubbard representatives claimed they could not locate.

At the time Defendant Armstrong left the SEA Organization, he was disappointed with Scientology and Hubbard, and also felt deceived by them. However, Defendant Armstrong felt he had no enemies and felt no ill will toward anyone in the Organization or Hubbard, but still believed that a truthful biography should be written.

After leaving the SEA Organization, Defendant ARmstrong continued to assist Mr. Garrison with the Hubbard biography project. In the spring of 1982, Defendant Armstrong at Mr. Garrison's request, transcribed some of his interview tapes, copied some of the documentation he had, and assembled several more binders of copied materials. Defendant Armstrong also set up shelves for Mr. Garrison for all the biography research materials, worked on a cross-reference systems, and continued to do library research for the biography.

On February 18, 1982, the Church of Scientology International issued a "Suppressive Person Declare Gerry Armstrong," which is an official Scientology document issued against individuals who are considered as enemies of the Organization. Said Suppressive Person Declare charged that Defendant Armstrong had taken an unauthorized leave and that he was spreading destructive rumors about Senior Scientologists.

Defendant Armstrong was unaware of said Suppressive Person Declare until April of 1982. At that time a revised Declare was issued on April 22, 1982. Said Declare charged Defendant Armstrong with 18 different "Crimes and High Crimes and Suppressive Acts Against the Church." The charges included theft, juggling accounts, obtaining loans on money under false pretenses, promulgating false information about the Church , its founder, and members, and other untruthful allegations designed to make Defendant Armstrong an appropriate subject of the Scientology "Fair Game Doctrine." Said Doctrine allows any suppressive person to be "tricked, cheated, lied to, sued, or destroyed."

The second declare was issued shortly after Defendant Armstrong attempted to sell photographs of his wedding on board Hubbard's ship (in which Hubbard appears), and photographs belonging to some of his friends, which also included photos of L.R. Hubbard while in seclusion. Although Defendant Armstrong delivered the photographs to a Virgil Wilhite for sale, he never received payment or return of his friend's photographs. When he became aware that the Church had these photographs, he went to the Organization to request their return. A loud and boisterous argument ensued, and he eventually was told to leave the premises and get an attorney.

From his extensive knowledge of the covert and intelligence operations carried out by the Church of Scientology of California against its enemies (suppressive persons), Defendant Armstrong became terrified and feared that his life and the life of his wife were in danger, and he also feared he would be the target of costly and harassing lawsuits. In addition, Mr. Garrison became afraid for the security of the documents and believed that the intelligence network of the Church of Scientology would break and enter his home to retrieve them. Thus, Defendant Armstrong made copies of certain documents for Mr. Garrison and maintained them in a separate location.

It was thereafter, in the summer of 1982, that Defendant Armstrong asked Mr. Garrison for copies of documents to use in his defense and sent the documents to his attorneys, Michael Flynn and Contos & Bunch.

After the within suit was filed on August 2, 1982, Defendant Armstrong was the subject of harassment, including being followed and surveilled by individuals who admitted employment by Plaintiff; being assaulted by one of these individuals; being struck bodily by a car driven by one of these individuals; having two attempts made by said individuals apparently to involve Defendant Armstrong in a freeway

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automobile accident; having said individuals come onto Defendant Armstrong's property, spy in his windows, create disturbances, and upset his neighbors. During trial when it appeared that Howard Schomer (a former Scientologist) might be called as a defense witness, the Church engaged in a somewhat sophisticated effort to suppress his testimony. It is not clear how the Church became aware of defense intentions to call Mr. Schomer as a witness, but it is abundantly clear they sought to entice him back into the fold and prevent his testimony.

# INDEMNITY AGREEMENT

The undersigned hereby agree to jointly indemnify MICHAEL J. FLYNN within the limitation described in the last paragraph hereof, in the event, and only in the event, all of the following conditions occur:

1. The case of Church of Scientology of California v. Armstrong, Los Angeles Superior Court No. 420153 and Court of Appeal No. B005912 the appeal of which is presently pending before the California Appellate Courts, Second District, is reversed and the damage cause of action therein is remanded for a retrial by said the Appellate Court; and

2. The Plaintiff therein, Church of Scientology of California, retries any part of said action, pursuant to that remand, wherein the Church of Scientology of California prays for damages; and

3. Judgment is entered pursuant to said retrial in favor of the Church of Scientology of California and against Gerald Armstrong; and

3. Gerald Armstrong pays any part or all of said judgment for damages; and

4. Michael J. Flynn reimburses Gerald Armstrong for any part or all of the monies paid to the Church of Scientology of California by Gerald Armstrong pursuant to the said judgment.

If all of the foregoing conditions occur the undersigned will indemnify Michael J. Flynn only for the sum of money he has reimbursed Gerald Armstrong. In no event will the undersigned indemnify Michael J. Flynn for any sum greater than twenty-five thousand dollars.

Earle C. Cooley
EARLE C. COOLEY

L E Heller
LAWRENCE E. HELLER

# STIPULATION

The Church of Scientology of California, Mary Sue Hubbard, and Gerald Armstrong, by and through their undersigned counsel, hereby stipulate that in any retrial ordered by any appellate court in Church of Scientology of California v. Gerald Armstrong, LASC No. C 420153, the total damages awarded to the Plaintiff Church of Scientology of California and Plaintiff in Intervention Mary Sue Hubbard, combined for any and all causes of action, shall not exceed twenty five thousand and one dollars ($25,001.00).

DATED: 12/10/86

MICHAEL J. FLYNN
Attorney for Defendant
Gerald Armstrong

DATED: Dec 10, 1986

JOHN G. PETERSON
Attorney for Plaintiff
Church of Scientology
of California

DATED:

MICHAEL LEE HERTZBERG
Attorney for Intervenor
Mary Sue Hubbard

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Superior Court of California
County of Los Angeles
Los Angeles, California

| | |
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| CHURCH OF SCIENTOLOGY, INTERNATIONAL, etc.<br>Plaintiff,<br>vs.<br>GERALD ARMSTRONG, ET AL.,<br>Defendant. | Docket No. BC 052-395<br>Los Angeles, California<br>May 27, 1992<br>8:30 a.m. |

## MOTION FOR PRELIMINARY INJUNCTION

THE HONORABLE RONALD M. SOHIGIAN, PRESIDING

| COURT RECORDER: | TRANSCRIPTION BY: |
|---|---|
| J.W. CRUSE | PARRIS TRANSCRIPTS<br>P.O. Box 41754<br>Los Angeles, CA 90041-9998<br>(213) 254-4157 |

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

APPEARANCES:

| | |
|---|---|
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| | LAURIE BARTILSON<br>Attorney at Law<br>Bowles & Moxon<br>6255 Sunset Boulevard<br>Los Angeles, California 90028<br>(213) 661-4030 |
| FOR THE DEFENDANT: | FORD GREENE<br>Attorney at Law<br>HUB Law Offices<br>711 Sir Francis Drake Boulevard<br>San Anselmo, California 94960<br>(415) 258-0360 |
| | GRAHAM E. BERRY<br>Attorney at Law<br>Lewis, D'Amato, Brisbois & Bisgaard<br>221 North Figueroa Street<br>Suite 1200<br>Los Angeles, California 90012<br>(213) 250-1800 |
| | PAUL MORANTZ<br>Attorney at Law<br>P.O. Box 511<br>Pacific Palisades, California 90272<br>(213) 459-4745 |

contract which is very specific, breaches which are admitted and defenses which cannot be maintained. The agreement itself is in front of you. It is Exhibit A to Exhibit II of the evidence in support of the preliminary injunction. I would like to point to --

THE COURT: What specifically did it require Armstrong to do?

MR. WILSON: The paragraphs upon which we rely are paragraphs 7-D, and accurately stated, it's what it required Armstrong to refrain from doing. Because that's the issue here. It's not a mandatory injunction that we're seeking but a prohibitory injunction. Paragraph 7-D required Armstrong not to publish books, magazine articles, et cetera, writings having to do with his experience with the Church or Mr. Hubbard, to maintain confidentiality.

THE COURT: Is there any evidence that shows that he's violating any covenant not to publish books, magazine articles or writings having to do with his experiences?

MR. WILSON: Not regarding books, magazine articles or publications. But the language is a little bit more all-inclusive than that. It's a very long paragraph and it basically, in my reading of it, relates to any publications. And the declarations which Mr. Armstrong has filed are publications in our view. That's paragraph 7-D.

Paragraph 7-E --

THE COURT: Just a second. What then should he have done or not have done?

MR. WILSON: Well, what he should not have done is filed the declarations that he filed.

THE COURT: In what case?

MR. WILSON: I've got the list of declarations that were filed as the breeches, and I was going to come to that later. If you'd like me to deal with it now I will.

(Pause)

MR. WILSON: I think it would be helpful if I gave you the, all the paragraphs we relying on, because the breeches are breeches of more than one paragraph of the agreement. For example --

THE COURT: Suit yourself.

MR. WILSON: -- paragraph 7-E requires Mr. Armstrong to return certain materials and documents. The two paragraphs that are most important here are paragraph 7-G and paragraph 7-H. Paragraph 7-G requires Mr. Armstrong not to voluntarily cooperate in any proceeding with a person adverse to any of the organizations listed as Scientology organizations in the agreement, and that includes the plaintiff.

And paragraph 7-H contains the provision prohibiting testimony unless it's pursuant to lawful process. And it also contains, excuse me, a confidentiality provision with respect to the terms of the settlement agreement.

THE COURT: Okay, let's look at it and see then just exactly what the language is, and just exactly the respects in which you contend it obligates Armstrong to do or refrain from doing anything.

MR. WILSON: Which you will find --

THE COURT: Which of the paragraphs do you want me going to put you under subpoena -- what's he supposed to do then?

MR. WILSON: That's fine. He may --

THE COURT: And is he supposed to do anything to try to avoid being served with a subpoena?

MR. WILSON: No, all he's supposed to do is not do anything to help himself be subpoenaed; for example saying, fine, I'll be at the corner of such-and-such and such-and-such and --

THE COURT: Where is that provided for?

MR. WILSON: All -- that is provided for in paragraph 7-H which is on pages 10 and 11. Starts at the bottom of page 10, and basically says he agrees not to testify unless compelled by subpoena.

THE COURT: Yes.

MR. WILSON: And then the sentence that runs over says he won't make himself available for subpoena in any manner which invalidates the intent. In other words, it's one thing to say, you may subpoena me. It's another thing to say, you may subpoena me, I will be at such-and-such a place, subpoena me. Or, I'll come to your office and pick up the subpoena.

(Pause)

MR. WILSON: Should I continue?

THE COURT: Yes, what would be the -- what would be the distinction between those two things? What difference does it make whether he testifies under subpoena that he himself voluntarily accepts, the service of which he

1986 settlement agreements on the ability of the Aznarans and other individuals victimized by quote "the organization."

THE COURT: Tell me what exactly he did there? He --

MR. WILSON: Okay.

THE COURT: -- went to Yanny's house and then he did what?

MR. WILSON: Went to Yanny's house, quote "did work in his [Yanny's] office." And I can't give you the page cite because it's not numbered.

THE COURT: That's all right.

MR. WILSON: Did work in Yanny's office.

THE COURT: What does that mean? What is it that he's telling us happened?

MR. WILSON: Well, then he goes on. And I guess what he means -- we don't know exactly what he means by "work." But he says,

READING:

> "...and did write and execute a declaration on July 16 giving my knowledge of the effect of the December 1986 group settlement agreements on the ability of the Aznarans and other individuals victimized by the organization to obtain proper legal representation."

THE COURT: Now your theory is that Yanny could have telephoned him; Armstrong could have spoken with him; Armstrong would have said, listen, I can't help you, I mean I can't do anything except testify under oath in a response to a subpoena; Yanny could have put him under subpoena. Then Armstrong would have showed up and he would have said the same thing that was in the declaration, and that would be entirely proper and not subject to being restrained in any way; right?

MR. WILSON: That's right.

THE COURT: Okay. Go ahead. What else did you -- do you think the evidence shows that Armstrong did that is contrary to the terms of the agreement? You think this is a 7-G violation by the way --

MR. WILSON: Yes, I do.

THE COURT: -- what you just talked about, right?

MR. WILSON: Yes I do.

THE COURT: Okay.

MR. WILSON: If you look at the Bartilson dec -- I'm sorry, the --

THE COURT: Tell me the act and then we'll go to the --

MR. WILSON: The act is his helping Mr. Greene in the Aznaran litigation. And that is referred to in the letter to Eric Lieberman from Jerry Armstrong, which is Exhibit 5 of the Evidence in Support of the Amended Motion for Summary Judgment.

THE COURT: You contend that that was a violation of what provision of the agreement?

MR. WILSON: That's also a violation of 7-G.

THE COURT: So you think that's a 7-G violation.

MR. WILSON: Right.

THE COURT: And where do you want to look in the of Plaintiff's Amended Motion, et cetera.

THE COURT: Go ahead with your review of the evidence concerning what you think are Armstrong's acts in -- wait a minute before we do that. You contend that the declaration in the Aznaran case is a 7-G?

MR. WILSON: That's correct.

THE COURT: Go ahead with any other review of evidence concerning acts that you contend Armstrong has committed which you contend to be in violation of the --

MR. WILSON: He gave --

THE COURT: -- agreement and which should be restrained, and give your agreement citation.

MR. WILSON: That is -- another one would be the declaration of Gerald Armstrong dated 7-16-91 in the Yanny case. That is Exhibit 1-K in the same packet, right before the -- actually, as long as you're looking, it's J and K; they're both declarations of Armstrong, dated 7-16-91. And whether we want to consider them one violation or two appears to me to be of very little consequence.

THE COURT: Well, let's take Exhibit K. That talks about a conversation to which Armstrong claims he was a witness which allegedly occurred on July 16, 1991.

MR. WILSON: Correct.

THE COURT: Your view is that he would prohibited from doing that?

MR. WILSON: My view is he's prohibited from voluntarily giving a declaration. It's not that he's --

THE COURT: Well, do you mean to say that there need be no nexus between Armstrong's behavior on the one hand and something having to do with information that he has because of his affiliation with your client on the other hand?

MR. WILSON: Like --

THE COURT: In other words, if somebody -- let's say that this is what's happening. Let's say that there is a lawsuit in which your client is involved and he is a witness to something but it does not depend on his having preexisting information concerning your client. Let's assume for example that he's here in court and a lawsuit is going on. And on the way out the lawyers get into a fight. One of the lawyers says, look Armstrong, give a declaration will you to show that the other fellow took the first punch and he says, well all right, I'll do it. And he does.

The lawyer who asks for the declaration is adverse to Scientology and adverse to -- in that lawsuit, and adverse to the other person who hit him. Your contention is that that would be improper?

MR. WILSON: Well, to be honest with you, I haven't thought of that particular situation.

THE COURT: The reason you haven't thought of it is because the language in the agreement is susceptible of potentially indeterminate interpretations; correct?

MR. WILSON: Well, I suppose you could say that. I don't believe it's susceptible to those determinations. I think that if Armstrong is aiding persons adverse to Scientology he's not supposed to do that and if he's doing it, and let's use your hypothetical. If the lawyer wants to use

Mr. Armstrong's testimony all he has to do is take a deposition. You can take any agreement and make a hypothetical that perhaps wasn't intended to be covered by the language but which is in fact covered by it.

THE COURT: Well no, what we're trying to do is we're trying to construe the agreement reasonably so that we know what it means to quote "voluntarily assist or cooperate with any person adverse to Scientology in any proceeding against any of the Scientology organizations" and so forth, end quote. Voluntary assistance or cooperation doesn't mean voluntarily assistance or cooperation which doesn't trade on some special talent or skill that Armstrong has.

What if, for example, there's a lawsuit between Scientology on the one hand and the Red Cross.

MR. WILSON: Your Honor --

THE COURT: Armstrong gives money to the Red Cross. He says I think it's good, I think people ought to be helpful when they have floods. You certainly wouldn't be able to beef about --

MR. WILSON: Obviously --

THE COURT: -- that, would you?

MR. WILSON: Obviously not. I mean, obviously the intent of the agreement was that there had to be some connection between what Armstrong was doing and what he had previously been involved with with the organization. And in this declaration there really is. I mean, he's with Yanny because of his previous connection with the organization. He's helping Yanny because of his previous connection with the organization; he's not helping Yanny because he just happens to be there, as in your hypothetical where he just happens to be in court. I think that is a distinction that needs to be made.

THE COURT: The distinction that I would make, the question is whether the contract makes that distinction.

MR. WILSON: Well, the contract doesn't explicitly make that distinction but it says "voluntarily aiding persons adverse to Scientology." And I think in your hypothetical, particularly the Red Cross hypothetical, obviously there has to be some reasonable construction of the contract. And no contract -- I mean I submit to Your Honor that any contract can be -- you can do to any contract what you did with this hypothetical to this one. You can make a hypothetical that is not covered by it but that obviously the parties entered into it would not contend the situation applied. There's -- we would not go to court and try to restrain Mr. Armstrong from giving money to the Red Cross.

THE COURT: What other acts do you contend the -- so you contend this is a 7-G violation?

MR. WILSON: That's right.

THE COURT: What other acts do you contend the evidence shows Armstrong committed in what you claim to be a violation of the agreement which under your client's theory --

MR. WILSON: I think that --

THE COURT: -- ought to be restrained?

(Counsel Colloquy)

MR. WILSON: I believe that Exhibit E to Mr.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 56 HON. BRUCE R. GEERNAERT, JUDGE

CHURCH OF SCIENTOLOGY OF CALIFORNIA,

PLAINTIFF,

VS.

GERALD ARMSTRONG,

DEFENDANT.

CASE NO. C 420 153

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, DECEMBER 23, 1991

APPPEARANCES:

(SEE APPEARANCE PAGE.)

COPY

HERBERT CANNON, CSR NO. 1923
OFFICIAL REPORTER

APPEARANCES:

| | |
|---|---|
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| FOR THE DEFENDANT: | TOBY PLEVIN, ESQ.<br>10700 SANTA MONICA BLVD.<br>SUITE 4-300<br>LOS ANGELES, CA. 90025 |
| | JOSEPH A. YANNY, ESQ.<br>1925 CENTURY BOULEVARD<br>SUITE 1260<br>LOS ANGELES, CA. 90067 |

ESPECIALLY WHEN YOU HAVE A TRANSCRIPT OF WHAT HAPPENED DURING THE HEARING.

MR. HERTZBERG: I WANT TO MAKE TWO OTHER POINTS BEFORE I MOVE ON ON THIS. ONE OF THEM IS THERE IS NO EVIDENCE THAT JUDGE BRECKENRIDGE DID NOT HAVE THE AGREEMENT IN FRONT OF HIM.

THE COURT IS MAKING A MAJOR FOCAL POINT OF THE FACT THAT MINISTERIALLY THE SETTLEMENT AGREEMENT WAS NOT FILED SUBSEQUENTLY WITH THE CLERK OF THE COURT. THAT DOES NOT MEAN, AND THIS COURT CANNOT, IN OUR VIEW, CONCLUDE THAT THE COURT DID NOT HAVE THE SETTLEMENT AGREEMENT IN FRONT OF IT AND WAS NOT AWARE OF THE ENTIRETY OF ITS TERMS.

I JUST WANTED TO POINT OUT THAT JUST BECAUSE WE DIDN'T FILE IT WITH THE CLERK DOES NOT MEAN THAT JUDGE BRECKENRIDGE DIDN'T KNOW EVERY WORD THAT WAS IN THAT SETTLEMENT AGREEMENT.

THE COURT: IT DOES NOT MEAN THAT HE DID EITHER.

AND I'LL SAY THIS: THAT IN MY EXPERIENCE -- AND IT MAY NOT BE THE SAME AS EVERYBODY ELSE'S -- WHEN PARTIES OR LAWYERS WANT A JUDGE TO ORDER THE PERFORMANCE OF THE SETTLEMENT AGREEMENT, THEY BRING IT IN.

WITH THE LITTLE CRYPTIC PHRASE, "IT IS SO ORDERED AT THE END OF THE AGREEMENT, THAT RAISES ALL SORTS OF CONCERNS WITH ME. MAYBE EARLIER, 15 YEARS AGO, I MIGHT HAVE DONE IT A COUPLE OF TIMES.

WHEN I REALIZED WHAT KIND OF PROBLEM THAT WAS, I SIMPLY DON'T DO IT ANYMORE. IF THEY WANT AN ORDER OF SOME OF THE TERMS, THEN I HAVE THEM SPELL OUT WHAT OF THE TERMS

THEY CONSIDERED TO BE APPROPRIATE FOR THE COURT ORDER AND THEN I GO OVER THEM AND SAY IS THIS REALLY SOMETHING THAT IS THE BUSINESS OF THE COURT TO BE ORDERING AND ENFORCING WITH CONTEMPT OR NOT?

AND I MAKE SURE THAT IT IS THE KIND OF CLEAR AND CONCISE ORDER THAT CAN BE THE SUBJECT OF A CONTEMPT PROCEEDING. SO MY BELIEF IS JUDGE BRECKENRIDGE, BEING A VERY CAREFUL JUDGE, FOLLOWS ABOUT THE SAME PRACTICE AND IF HE HAD BEEN PRESENTED THAT WHOLE AGREEMENT AND IF HE HAD BEEN ASKED TO ORDER ITS PERFORMANCE, HE WOULD HAVE DUG HIS FEET IN BECAUSE THAT IS ONE OF THE -- I HAVE SEEN -- I CAN'T SAY -- I'LL SAY ONE OF THE MOST AMBIGUOUS, ONE-SIDED AGREEMENTS I HAVE EVER READ. AND I WOULD NOT HAVE ORDERED THE ENFORCEMENT OF HARDLY ANY OF THE TERMS HAD I BEEN ASKED TO, EVEN ON THE THREAT THAT, OKAY, THE CASE IS NOT SETTLED.

I KNOW WE LIKE TO SETTLE CASES. BUT WE DON'T WANT TO SETTLE CASES AND, IN EFFECT, PROSTRATE THE COURT SYSTEM INTO MAKING AN ORDER WHICH IS NOT FAIR OR IN THE PUBLIC INTEREST.

SO BASICALLY, I HAVE TO CONCLUDE BASED ON THE RECORD THAT THERE WAS NO ORDER; SIMPLY, HE WASN'T PRESENTED THE ORDER. HE WAS NOT ASKED TO ORDER ITS PERFORMANCE. HE DIDN'T ORDER ITS PERFORMANCE.

THE FIRST TIME THAT WOULD BE DONE WOULD BE IN RESPONSE TO YOUR MOTION AT THIS TIME.

MR. HERTZBERG: JUDGE, LET ME RESPOND TO THAT.

FIRST OF ALL, I THINK YOUR HONOR KNOWS WE ARE NOT CLAIMING THAT JUDGE BRECKENRIDGE SO ORDERED THE TERMS